

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS

BEFORE THE

TEMPORARY NATIONAL ECONOMIC COMMITTEE

CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

FIRST SESSION

PURSUANT TO

Public Resolution No. 113

(Seventy-fifth Congress)

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO
MAKE A FULL AND COMPLETE STUDY AND INVESTIGA-
TION WITH RESPECT TO THE CONCENTRATION OF
ECONOMIC POWER, IN, AND FINANCIAL CONTROL
OVER, PRODUCTION AND DISTRIBUTION
OF GOODS AND SERVICES

PART 7

MILK INDUSTRY

POULTRY INDUSTRY

MARCH 9, 10, AND 11 AND MAY 1, 2, AND 3, 1939

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INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

THURSDAY, MARCH 9, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:30 a. m., pursuant to adjournment on Wednesday, March 8, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman); Representatives Reece and Williams; Messrs. Henderson; Davis; Ferguson; Douglas; O'Connell; Berge and Hinrichs.

Present also: Willard Thorp, and Ernest Tupper, representing Department of Commerce; Edward E. Eicher, representing Securities and Exchange Commission; Federal Trade Commissioners William A. Ayres and Charles H. March; Willis J. Ballinger, director of studies and economic adviser to Federal Trade Commission; Wilbur N. Baughman and Anderson H. Tackett, attorneys; and Kemper Simpson, economist, Federal Trade Commission.

The CHAIRMAN. The committee will please come to order.

May I say that there are about 11 different committees of the House and Senate in session today demanding the presence of the congressional members of this committee. I have been waiting for Vice Chairman Sumners or one of the House members to come and relieve me, because I have to leave to attend the Appropriations Committee, which is now working on the Treasury and Post Office appropriation bill. I am very sorry not to have the opportunity of sitting throughout the testimony of Mr. Howe, whom I assume you are about to call.

It is my understanding you would like to make a statement at the outset, Mr. Ballinger.

Mr. BALLINGER. Senator, in speaking extemporaneously yesterday¹ for the record I referred to the N. R. A. as characterizing a wholesale betrayal of the public interest. Thinking the matter over, I realized that more connotations attached to the word "betrayal" than I realized at the time I used it. My remarks were not directed toward impugning anybody's motives. I was merely discussing results, and so I therefore feel that I should respectfully request the Temporary National Economic Committee to permit me to change that phrase to read "and there was an insufficient protection of the public interest," if I may do so.

The CHAIRMAN. I am sure there will be no objection to the amendment of the record. I also feel that in all probability your language

¹ March 8, 1939. Included in Hearings, Part V.

was not misunderstood. There is always a certain amount of, one might always say, poetic license when a person is discussing an issue of this kind extemporaneously. We give way, perhaps, to excess of enthusiasm and emotion, sometimes, in the use of language. I know I would hate to be held to a literal interpretation of the language that I use, particularly when I am talking to the newspapermen.

Mr. BALLINGER. Thank you.

Now, Senator, this morning we are presenting facts about the milk industry, a very important industry because it affects the health of children and the health of the Nation as a whole. I want to say this to the committee before we begin. The Federal Trade Commission has had 20 years' experience with the steel industry and has also had nearly 20 years' experience with the milk industry. When we realize that the milk industry has been subjected to considerable investigation by other agencies of the Federal Government, we would like to point out to the committee that in producing these facts about the milk industry we are not guessing. This has been one of the most thoroughly investigated industries that has come before you by the Federal Government's agencies. I want to call as our first witness Dr. Frederic Howe.

TESTIMONY OF DR. FREDERIC C. HOWE, FORMER CONSUMERS' COUNSEL, AGRICULTURAL ADJUSTMENT ADMINISTRATION, WASHINGTON, D. C.

Mr. BALLINGER. Will you state your name for the record?

Dr. HOWE. Frederic C. Howe.

Mr. BALLINGER. What is your present business?

Dr. HOWE. I have been assigned by Secretary Wallace to the committee to cooperate and work with it with respect to agricultural commodities.

Mr. BALLINGER. How many years have you been studying the milk problem, Dr. Howe?

Dr. HOWE. It came up very promptly in 1933 when I was appointed Consumers' Counsel to the Agricultural Adjustment Administration because of the Senate inquiry into milk, of which Senator King was a member. That was one of the most dramatic studies that has been made. It interested me very greatly and it immediately came up in connection with the marketing agreements which were being formulated by the Agricultural Adjustment Administration; and immediately my group of men were thrown into the study of the milk problem and that continued and has continued down to the present time.

(Mr. O'Connell assumed the chair.)

Mr. BALLINGER. As Consumers' Counsel you made rather extensive investigations into the milk industry, did you not?

Dr. HOWE. We had 20 men. I suppose one-third of their time at least was spent on the dairy industry. In addition to that I did some special work for Chester Davis,¹ looking to a yardstick, a public yardstick, on the dairy industry which it was thought might be installed in the Bronx Market in New York City, and I studied the

¹ Former administrator, Agricultural Adjustment Administration.

business operation of a pasteurization plant and distribution of milk and made a report to him which I understood at that time was requested from the White House.

In that sense, I went into the business end of it as an operating industry. I have also studied milk in Europe on two or three occasions, in Denmark, Switzerland, Holland, and Germany, in connection with other assignments which I had in Europe.

Mr. BALLINGER. Are you a lawyer, Dr. Howe?

Dr. HOWE. Yes.

Mr. BALLINGER. Are you an LL. B.?

Dr. HOWE. No; I am not.

Mr. BALLINGER. A member of the bar?

Dr. HOWE. Yes.

Mr. BALLINGER. Where were you admitted?

Dr. HOWE. First in Pittsburgh, then in Cleveland, Ohio.

Mr. BALLINGER. How many years did you engage as a lawyer in private practice?

Dr. HOWE. Twenty years.

Mr. BALLINGER. In the course of your practice, did you run into the problem of monopoly?

Dr. HOWE. I suppose that 70 or 80 percent, possibly 90 percent, of our business was corporation business, and a large part of it was monopoly business. We were on both sides of the question there; we represented railroads and waterworks, banks, mines; a good deal of the business came from New York and Boston; and for 10 years the firm of which I was a member was the general counsel of the city of Cleveland. Tom Johnson was mayor at that time and he was carrying on a 10-year struggle to introduce lower fares in street railways, to build a municipal electric-lighting plant, to control the natural-gas situation, and in all that time my firm was connected with about 50 injunction suits leveled against the municipality in its efforts to build its own plant. Incidentally, it took 10 years after the original resolution was introduced to wade through all of the legal obstacles which were placed in the way of municipal ownership in that city.

Mr. BALLINGER. You are also a Ph. D., aren't you, Doctor?

Dr. HOWE. Yes.

Mr. BALLINGER. What university?

Dr. HOWE. Johns Hopkins.

Mr. BALLINGER. In preparing your presentation this morning, you are well acquainted with the studies which the Federal Trade Commission has made of the milk industry in 1921 and 1934 and the supplementary investigation made in preparation for this hearing?

Dr. HOWE. Yes; I have been studying it ever since the beginning of those investigations.

Mr. BALLINGER. Would you say that there is any essential difference between your conclusions about the situation in the milk industry and the conclusions reached by the Federal Trade Commission in these reports?

Dr. HOWE. There is substantial unanimity, if not almost exact unanimity, in the general and specific findings of the Federal Trade Commission, and I think also of the Department of Justice.

Mr. BALLINGER. Thank you. You may proceed, Dr. Howe.

PROBLEM OF BETTER DISTRIBUTION OF WEALTH IN DAIRY INDUSTRY

Dr. HOWE. I have outlined the main subject matter of this discussion. I believe it is before the committee. I will follow that prologue pretty well, and in addition to that it is divided up into sections for rather easy consideration as a whole, and I should like better than anything else to complete an item and then discuss it as a panel, or, generally, to see whether there are any errors in logic or in the conclusions up to that point—see whether it should be modified—and then move on to the next.

It is presented something like a legal brief, seeking to build up an understanding of the dairy industry, not only as a monopoly but as a controlled industry, and the obstacles which exist in that industry to what I understand the committee is primarily sitting for—to see what can be done to increase the production of wealth and bring about its better distribution.

That study is directed to three main objectives. One is to put more milk in the milk bottle; second, to put more money in the pocket of the farmer; and the third is to find out if we cannot end some of the abuses disclosed by the Federal Trade Commission studies.

It is not directed primarily to putting anybody in jail, for that isn't my business. It is directed to a study of the dairy industry as related to the national economy. That, to me, is the important subject matter.

Now some facts may be stated about this industry, as may be stated about many other industries of widespread operations. The first is that this is one of the businesses in which pennies, the pennies of millions, make up the millions of the few. It is also more or less true in the distribution of milk that we don't buy milk. We are buying trucks or renting them, spending a large part of the consumer's dollar in a distribution system.

The third item is that, as in many other farm commodities, the farmer is a distress seller. He sells an immediately perishable commodity.

The fourth item is that like many other farm commodities, there is a condition which exists at the point of sale which may be described as sometimes a platform, sometimes a bottleneck, sometimes a warehouse, but it creates a condition in which the buyer has a strategic position and power over the seller.

The final fact which seems to stem out of this study is that the monopolistic conditions which prevail in the industry are not wholly illegal. They are legal as well as illegal. They issue out-of-State laws, municipal ordinances, behind which monopoly has built up its power. But at the beginning the monopoly power traces back to institutional things, not unlike a patent, not unlike a pipe line, not unlike the beginning of a railroad, but given that as an initial starting point, the other things follow.

I remember in one legal controversy I was in, or one legal matter, relating to steel, the steel men formed a pool. They met in New York, in the Waldorf-Astoria, and they fixed their prices, but as one of the men said, we no sooner got the prices fixed at 12 o'clock than all of us ran to the telephone to telephone to our clients to cut the price.

"But," he said, "as soon as we get behind a legal protection like the tariff, then we can form our consolidations with very great ease."

That is an instance in which one industry was aided in becoming a monopoly by virtue of legislation.

There is a good deal of that in milk.

This study I think reduces itself down first of all certainly to the condition of the selling farmer, and as an industry it relates to 50,000,000 quarts of milk. That is what we produce in this country. It is a \$2,000,000,000 industry. It is the biggest item in the farm budget. If we could pay the farmer enough for his milk, we would make 12,000,000 people on the farm more contented, as we would lift many of them from relief and protect many from insolvency. And with milk strikes and milk controversies going on all over the country, it is not necessary to prove there is a milk problem, that there is something the matter with this big industry which is one of the major industries of the country.

To my mind there is no great mystery about milk, despite all the struggles about it. Simply stated, it consists in getting more milk to 70,000,000 urban consumers in the cities and more money to 12,000,000 people on the farm. In between these two factors are two big distributors and their allies. They operate out of New York City. They fix the price for the consumer at one end of the line as they fix the price to the farmer at the other end.

I am interested in that problem rather than in any criminal aspects of the situation. Why is it possible to do this? The explanation is that these powerful milk companies and their allies stand astride of the industry, they stand astride of 26,000,000 cows, some billions of dollars of farm investment. It is they who determine also what 70,000,000 people in the city shall pay for their milk, as well as what 3,000,000 farmers who produce it shall receive for their labor.

Now as to the influence of institutions, milk is not dissimilar in its genesis from the Standard Oil Co. Forty years ago the milk business was a farmer's business. He milked his own cows and he peddled his own milk. He made butter and was also a cheese maker. He sold these products in the nearby towns. That is still true, to some extent, in every country with which I am familiar.

About 15 years ago big business entered the industry. It was organized quickly into Nation-wide corporations. They expanded their business from one end of the country to the other. They did this by taking possession of pasteurization plants which they then used with other devices to create a monopoly of distribution instead of to protect the community from impure milk. In other words, they used their power to control the supply of milk rather than to serve the community for which these plants were intended.

Today they want only their own milk to reach the city. They try to keep all other milk out. They throw obstacles in the way of anyone else selling milk except on their terms and at their price. In other words, they have succeeded in denying 3,000,000 farmers the right to their own business, to be their own distributors.

What the milk trust has done is one of the most important problems of our economy and it is also important to our health. Milk is important to babies and children; it is important to adults. If we got our milk cheap enough we might double the consumption of milk. We might make weakling babies grow into strength as they did in one western city where they fed them a quart of milk a day.

It may be said that 12½ cents a quart for milk, which is the average price charged in 12 of the larger cities, is little enough. Yet we have distributors who are selling milk for much less. They are selling milk in Detroit for 6, 7, and 8 cents a quart. There are distributors in Chicago who are selling at 8 and 9 cents a quart. And it is the same milk. It comes from the same cows. It is produced and admitted to market under the same kind of health regulations.

In Detroit one of the largest distributors distributes wholly through stores, of which he has 40. He pays the farmer as much, if not more, than do the big distributors. He admits to **governmental agents** that he is making a handsome return on his business, selling milk from 6 to 8 cents a quart.

Now, this is the way milk is sold in practically all other countries with which I am familiar. It is sold through shops. The big companies, however, insist that people must get their milk from wagons, even though it costs so much that the poor cannot buy milk that way and the middle classes cannot buy enough milk. The question is, What right has a corporation to say that a great metropolitan city can only buy as it decrees, especially when other men would sell milk so that it could be used by the poor at possibly 60 percent of what the monopolistic distributor charges?

This is what milk might cost as a competitive business. I am interested in it as a competitive business. I am interested in freeing it so that milk will flow just as freely as possible from the farms to the consumers, pasteurized and made safe for consumption. And if we could produce and sell more milk at a fair competitive price we would have better health in our cities, we would have an oncoming generation of children who had strength in their bones, and milk is essential to good bones and teeth structure. We would have an army of farmers who were paid a better price for that which they produce, a price which would free them from strikes, on the one hand, and from going on relief, on the other.

Now, why is milk a national problem? First of all, it is a big industry. It is a \$2,000,000,000 industry. It is comparable with iron and steel rolling mills, with motor vehicles except cycles and three or four industries of the same sort. Those are the figures of 1933.

Do we get enough milk? The doctors say no. One department of the Government after another says no. Milk is a serious matter to babies and children. In the South it is one good enemy of pellagra. Without enough milk we may be breeding a weakened generation; without enough milk we will be faced by increased medical costs; without enough milk we are laying a costly burden of increased relief on the future.

Some years ago the relief administration stated that 7,000,000 of our children were suffering from malnutrition, and malnutrition and undernutrition are very largely traceable to an inadequate milk supply. In one western city it was testified that there were 100,000 children who didn't get enough milk.

Up in Grand Rapids, where they feed the children a quart of milk a day, it has been stated that the children grow like wilted plants, when you water them.

There was found to be no underweight or undernourished children even among the families on relief, and the savings in doctors' bills

alone made up for the cost of the milk bill. A further study by the Consumer's Counsel Division of the Agricultural Adjustment Administration in 59 cities in 1934 showed that the weekly consumption of whole milk, and of the whole milk equivalent of evaporated milk for 28,966 families, was 2.44 quarts per capita.

Without going further into that description, this average consumption for all the families in the study was 18.77 percent below the low level of 3 quarts of milk a week and 50.1 percent below the 5-quart level.

Doctors all over the country are making statements to the same effect, that neither children nor adults get enough milk. And, from the economist's point of view, we could produce a great deal more milk than we do now and find a ready market for it. All that, I think, will be affirmed by a witness we have here from Detroit who will go into the business details of a plant which is occupied solely with the sale of milk.

The proper diet of milk is frequently placed at a quart of milk a day for children under 15 and a pint of milk a day for adults.

Despite our great wealth, we do not stand high in the consumption of milk products. The countries of Switzerland, Sweden, and Norway consume more milk than do the people of our own country, while New Zealand, Australia, Canada, Finland, and Sweden consume more butter. There are 11 countries in which the people buy more cheese per capita than we do in the United States. While farmers would gladly produce and people would gladly consume, the two don't get together.

Some years ago it was stated by an official of the Agricultural Adjustment Administration that we needed 15,000,000 more cows in this country just to produce the milk that might properly be consumed. So much for the consumer. Anyone who lives in the dairy States knows that the dairy problem is one of the most acute problems of our farming population. It isn't necessary to go into details about that, but we do have a statement from Justice Roberts in *Nebbia v. New York*, which is confirmatory. He says, "During 1932 the situation of the families of dairy producers has become desperate, and calls for State aid similar to that accorded to unemployed." He added, "The production and distribution of milk is a paramount industry of the State and largely affects the health and prosperity of its people. Dairying yields fully one-half of the total income from all farm production. The dairy farm investment in New York amounts approximately to \$1,000,000,000." Carried into the Nation as a whole, one might estimate that the total dairy investment was from seven to ten billion dollars.

Representative REECE. Would you please state again the percentage of dairy production in relation to the total farm production?

Dr. HOWE. It is 18.5 percent; it is the largest single item in the farm industry; it is about one-fifth of the total farm industry.

I had occasion to attend meetings as well as city-marketing agreements, and whether it was in New York or New England, Pennsylvania or Wisconsin, wherever I went the dairy farmers were in a kind of fog. When their farm prices got very low they went on a strike. The only thing they could do when they went on a strike was to dump their milk in the roadways, and they could only do that for 2 or 3

days and then they had to come back and accept conditions as they were. That low income has sunk the dairy farmer so low that it is affecting the value of his cattle and the value of his farm. There are farm foreclosures and a fear of insolvency in many sections.

It is my belief that the dairy industry could be made not only the most attractive of all farm industries but a properly developed dairy program would build up a great industry, if we could take these 3,000,000 farmers who are commercially interested in milk and the 4,000,000 farmers who produce their milk, that is twelve to fifteen million of our total farm population. In a general way those dairy producers are round about our towns and cities. New England is very largely a dairy area; New York State, I think, is the second largest dairy State; New Jersey, Pennsylvania, Maryland, Ohio, Indiana, Wisconsin, Illinois, Iowa—all those States could be freshened into a marvelous farm life if the dairy industry could be made a farmers' industry with such aids and supports as the Government might give it, so that things would happen that have happened in other countries where the dairy industry is predominantly a concern of the Government. That involves getting the income back to the farmer so that he has a decent income with which he can operate.

Mr. BALLINGER. You don't mean the Government should own the industry?

Dr. HOWE. No. I mean that kind of aid which the Government gives to housing, to credit, to industry, if we thought about it as a serious problem, not merely as an isolated monopoly problem.

Some years ago I was in Denmark where they have built up the industry in just that way. They protected the farmer from all kinds of monopoly control and made him the master of his industry from the farm right straight through to the London market. In Holland the dairy industry freshens the country in the same way. As soon as the farmers in those countries got a sufficiently large income they bought better cows, they bought better bulls, they took pride in their industry. They organized cooperatives. They just grew as other people do when you make them well off. If we could just take that big hunk out of our farm population, 50 to 60 percent of it, and definitely put it on its feet, producing milk, producing butter, producing cheese, producing casein, producing the factors that go into ice cream, and giving them a fair return for it, free from the kinds of things we will talk about later, I think it would go a long way not only to putting the farm population on its feet but a long way toward a recovery too. If we could get that many people buying, as they can't buy at the present time, it would shortly be related into industry, it would be related into wages. I don't know of any industry as big as this that affects as many people, and if it were developed in that way it would ultimately affect the Nation as a whole.

Representative REECE. And it is your thought that the consumers pay a sufficient amount for milk so that if it is evenly distributed back to the various agencies that have to do with the distribution to the farmers who produce it, there will be sufficient for the farmers to adequately take care of their requirements.

Dr. HOWE. We are going to have a witness here who is a practical dairyman selling milk, and who has been trying to sell milk for 26 years, who is selling milk for 6, 7, and 8 cents a quart. We could

reduce the price to the consumer and still have a spread which could be channeled back to the farmer and lift his standard of living by that much. Milk is an interesting thing because pennies mean so much. Up in New York State I was at a hearing and a woman got up and said, "Don't talk about big things, Mr. Howe, just talk about a quarter of a cent to us, talk about a half a cent to us. We are now getting $2\frac{3}{4}$ cents a quart for our milk. We don't want to hear about billions of dollars; all we want is 4 cents a quart for our milk and we will be on easy street."

I have heard farmers throughout the country say the same thing: "Just lift us up a little bit and we will be out of our distress." There is a big enough spread there on fluid milk. As to whether there is on other commodities I can't speak with so much feeling of assurance, but as to fluid milk there is a big enough spread there to help both the farmer and the consumer.

Mr. HINRICHS. Dr. Howe, do you have evidence that will be introduced with reference to the consumption of milk in the Netherlands and Denmark? You indicated that as regards the farmer he had been well taken care of in both of those countries. Would the evidence also indicate for those two countries that it has been beneficial from the point of view of the consumers?

Dr. HOWE. I didn't cite here these various countries where there was a larger per capita consumption in both butter, cheese, and milk than in the United States?

Mr. HINRICHS. Neither of those two countries was in that particular list.

Dr. HOWE. Wait a minute; I don't know that I read them.

Mr. HINRICHS. I might say that it would not be necessary in order to establish the soundness of your case that there should be a larger per capita consumption because in both of those countries the per capita income of the country is lower than it is in the United States and, therefore, a lower per capita consumption of milk and milk products could very logically be found there even though the consumers, relatively speaking, were better off than they are here, but I wondered if you had evidence to indicate rather definitely that this betterment of the farmer had been accomplished without injury to the consuming interests in those two countries that you cited.

Dr. HOWE. Here are the countries of Switzerland, Sweden, and Norway, reported to consume more milk per person than the people of our own country, while in New Zealand, Australia, Canada, Finland, and Sweden they consume more butter on the average than we do in the United States. Nor do we stand high in the consumption of fluid milk as related to two or three other countries.

I found in one plant in Europe where they were definitely interested in getting milk products into the hands of the consumers, that in 6 years' time they greatly increased the consumption of cheese by making a good cheese, the best cheese that could be made, and it is interesting to say that I don't know any other country where we have the base surplus plan where you pay a farmer one price for fluid milk and another price for cheese milk. In Europe, so far as I know, they pay only a flat price for them, but I didn't make a study of that. It was true that in this city they definitely said cheese is a good thing for rich and poor to use, we are going to make a good cheese, we are

going to push its consumption. I found the same thing in Switzerland. But in those countries they just cut the distribution costs to the bone. In Basel, where I studied it, the trucks were carrying between 650 and 700 pints a day on the wagon, 2 or 3 times what is often carried in this country. Also, the share that went to the plant was mathematically calculated and reduced down to its production cost. The distributor's share was related to production costs. In one city of 500,000, I found that with milk, say, at 6 cents, the farmer got 4 cents, the plant costs were 1 cent, and the store distribution cost was 1 cent. That is almost the reverse of distribution in this country, and still they were able to sell milk in different cities at ranges from 6 cents to 10 cents, I should say. I made a spot study only on 2 or 3 plants there.

Now, I am going back for just a bit to show what happened to the dairy industry and how it happened. The dairy industry formerly was a farmers' industry. That was pretty much true all over the United States. The farmer got his cash income out of the milk; even today milk is the prize income of the farmer; it is so much better than a single cash crop. He gets a weekly income that goes into his necessities. He feeds himself, he clothes himself, he pays his taxes. I guess you know that a dairy income is probably the one income that the average farmer wants the most. When I was a boy the farmer milked his cows and peddled his own milk, he made butter, and good butter. I think he made cheese. He was master of his industry from start to finish, just like a big industry is. He mingled with the nearby town. He was dignified in his life; he was diversified; he was interested. Also, he got paid for two things; he got paid for his milk, and he got paid for his labor. Today he is only paid for his milk. He has lost maybe a third, maybe a half, of the income that he got from the distribution of milk.

That wasn't true as to New York or Chicago or Philadelphia, but it was very largely true in the thousands of towns throughout the United States.

That is with modifications, the use of cooperatives. I should like to see the farmer again get back the control of his industry, from the farm to the ultimate consumer, not necessarily driving his own wagon but driving it cooperatively.

Something happened about 1900, one of those accidents that more or less changed the industry. At least that was the beginning of it. There were epidemics all over the country. Collier's magazine was concerned about them, and health studies showed that those epidemics of typhoid were traceable to bad water on the one hand and bad milk on the other, mostly in those cities where cows are slopped from the distilleries. At any rate there was a Nation-wide movement to purify water and purify milk. As to water, the cities put in purification plants. They put in a coagulating system by which raw water was poured over the filtration and pure water went through and the bacteria were thrown back into the sewer.

Cities did that part of the job for themselves.

Dr. Jacobi, a very celebrated physician in New York—and New York was rather bad—advised housewives to heat their milk and after they had heated it for a proper time to put it in the ice box and that would kill the poisonous bacteria. As far as I know, that

was the beginning of pasteurization and purification of milk in this country.

The farmers in the larger cities went into the pasteurization business themselves. They said, "Why, yes; we ought to sell pure milk," and the farmers built pasteurization plants. Owning the pasteurization plants themselves they were still in the dairy industry, it was still a farmer's industry so long as he owned his own pasteurization plant, his own bottleneck through which the milk passed.

Then in 1923 something happened. It was just the beginning, but it made other things possible that gave birth not only to this monopoly but to many other monopolies too. And I feel personally concerned about these bottlenecks in industry. I grew up in northwestern Pennsylvania in the heart of the oil country, in Crawford County and Venango County. I suppose that was as prosperous a spot as there was in the eighties. That is where oil was discovered. It was discovered on farmers' farms and the farmers got a good price for their oil.

They built fine homes. The cities there—Franklin, Oil City, Meadville—were filled with fine homes. I remember, as a little boy, when something happened. We didn't know what it was, but a blight fell on those three counties. They employed Mr. Dodd, who subsequently became attorney for the Standard Oil Co., to help.

What had happened—and Miss Tarbell has described that—was that the oil produced in the farmers' fields flowed on the ground. Refineries caught fire, and after that some adjustment was made and ultimately the farmers got what the oil trust saw fit to pay them. In other words, the oil industry was changed into a monopoly by the fact that oil could only go through transportation agencies on terms fixed by the Standard Oil Co.

That spread to anthracite coal, it spread to bituminous coal. The control of the methods of transportation, the arteries, bottlenecks, was the genesis of big monopoly in this country, and when to that was added the New Jersey laws and Delaware laws which permitted holding companies, we had two devices which gave great strength, at least to certain kinds of industries.

Those are the kinds of institutional things which I spoke of with respect to farm commodities. We find it is true as to fish, we find it is true as to poultry, we find it is true as to tobacco, we find it true as to milk.

The United States Public Health Service was interested in the purification of milk. It drafted a standardized ordinance. It sent it to State health authorities and city health authorities, and pretty soon they had it in 900 cities. Today practically every town and city in the country requires milk to be pasteurized. It is only in very small towns of under 10,000 where it is not compulsory.

I believe in pasteurization of milk, I believe in making it pure, but at this point we really come to a strategic turning point in the dairy industry. The Public Health Service conceived of pasteurization plants and cities passed pasteurization ordinances for just one thing—that is, to make milk pure, like a water-purification plant—and if the pasteurization plants had continued to purify milk only and took a tolling charge for the purification of milk, so that all the milk that the farmers produced which came to the city, would pass through

this very simple process of heating and cooling and putting it into the bottles, the farmer would still control his industry, or he might have done so, but at any rate we would have had a free flow of milk from the man who produced it to the consumer who bought it. We would have the competitive system that we are trying to find a means of securing, in that great industry.

What stopped that? In 1923 the National Dairy Products Corporation was started. The Borden Co. existed prior to that, from 1899, I think. But the National Dairy Products Corp. immediately started out to acquire pasteurization plants and to build them, and it moved with almost incredible rapidity over the country. According to the Federal Trade Commission, they had absorbed 360 dairy companies between 1923 and 1938; of these, 270 were engaged in fluid milk. Borden's in the same way took over 207 separate enterprises, and these two corporations, either of themselves or in collaboration with other distributing agencies, controlled the fluid-milk industry.

Mr. BAUGHMAN. Doctor, in reference to taking over the pasteurization plants, they used that as part of a method to acquire distributing systems as a whole, is that not correct?

Dr. HOWE. Surely, that is what I am coming to.

The pasteurization plants then went into the distribution of milk. I will tell this in detail for Chicago. They weren't organized to sell milk, but they bought milk only for themselves and nobody else's milk could come through. They wouldn't let the farmer's milk come through; they wouldn't let an independent's milk come through; they bought solely for themselves because they had entered into the distribution of milk. And then by combinations, by the use of the bottle exchange, by the use of various devices, they kept everybody out of our city market. But it was necessary to combine those two things, the house-to-house distribution and the control of the inlet of milk, to keep the monopoly.

Raw milk couldn't come in, pasteurized milk only could come in. Plants were very expensive and the farmers couldn't build their own plants in the city because real estate was so costly. That is the genesis of this problem. It isn't all there is to it, but it began with an instrument designed for one thing which was changed into another thing; de facto, if not legally, it was an ultra vires act to convert a health agency into a purely business agency, almost as though the health officer himself had set himself up on the highways and said, "Nobody else can sell milk in this town but me," because it was the health agency, the arm of the health officer, that did just that thing.

The development of these two companies was very rapid, but it didn't stop with fluid milk. It went into butter and cheese, especially into ice cream. It went into cream, it went into casein, canned and evaporated milk, and with three other big companies those five corporations, with the meat packers of Chicago, dominate this industry, if they do not pretty completely control it.

Today the State of New York is literally covered by subsidiaries. One calculation of the Federal Trade Commission, I think it is, gives the number of 110. One map of New York which I saw sometime ago seemed to be almost black with subsidiaries of these corporations. The same is true of Pennsylvania, Ohio, Michigan, and Wisconsin. Branches are found in the South and West. I doubt if we know or

can know the number of subsidiaries of these two corporations, for the simple reason that there are subsidiaries of subsidiaries, and there may be subsidiaries of subsidiaries of subsidiaries.

In 7 years' time, by 1930, the National Dairy Products Corporation had total capital assets of \$278,000,000 and gross sales of \$375,000,000. That was for all the things it sold. In 1932 the Borden Co. had total assets of \$215,000,000 and gross sales of \$197,000,000. These two companies were hardly known in a major way prior to 1923. Yet in a few years they had built up a total capitalization of nearly \$500,000,000 and total gross sales of \$600,000,000.

Mr. BAUGHMAN. Dr. Howe, that capitalization total doesn't show the ramification strength of the two companies, does it?

Dr. HOWE. In what way, sir?

Mr. BAUGHMAN. You say a capitalization of \$500,000,000. That is relatively small concerning the way corporations grow. Does that show their real strength, in your opinion?

Dr. HOWE. No; not at all. It does show this strange anomaly, however, and this anomaly is very anomalous to me: Why two corporations or five corporations, with a total capitalization of less than half a billion dollars should be able to control 3,000,000 farmers, 3,000,000 dairy farms, a dairy investment of I don't know how many billions—seven or eight billion dollars—just a few men in one city could stand astride of an army of people and determine how they should produce, what price they should get for what they produce, as they control 70,000,000 people who pay for those commodities. And what is true of fluid milk is true of canned milk also; it is true of ice cream. We will also show how the cheese situation is dominated and controlled.

Two things happened. The first was that the number of distributing farmers was just washed out. As soon as a pasteurization plant came in, the old distributing system, as the old farm economy, in which a man sold his own milk and butter, was just washed out. Within a few months' time the independent distributor was gone and a new distributor came in.

(Representative Reece assumed the chair.)

FLUID MILK CONTROL IN VARIOUS CITIES

Dr. HOWE. The following list of 19 cities indicates the extent to which the control of fluid milk had extended by 1930. This data is taken largely from reports of the Department of Justice and other agencies.

(a) New York City: Sheffield Farms Co., a subsidiary of National Dairy Products Corp. and the Borden Co., controls slightly in excess of 50 percent of the milk distribution. When Dairymen's League is added the figure is increased to about 70 percent.

(b) Philadelphia: Four companies control approximately 85 percent of the distribution; this includes the subsidiaries of the National Dairy Products Corporation, the Supplee-Wills-Jones Milk Co. which distributes about 34 percent of the total.

(c) Baltimore: Subsidiaries of the National Dairy Products Corp. control approximately 85 percent of the distribution.

(d) Washington, D. C.: Subsidiaries of the National Dairy Products Corp. control about 55 percent of the distribution.

(e) Pittsburgh: Two companies control about 57 percent of the distribution, divided as follows: Rieck-McJunkin Co., a subsidiary of National Dairy Products Corp., 38 percent and Meadow Gold Dairies, a subsidiary of the Beatrice Creamery, 19 percent. The next largest company is the Otto Milk Co., an independent, which controls 8 percent.

(f) Detroit: 27 percent of the distribution is controlled by the Detroit Creamery Co. and the Ebling Co., which are subsidiaries of National Dairy Products Corp., and 25 percent by the Borden Co., making a total of 52 percent. The Kennedy Dairy Co., which is a subsidiary of the United States Dairy Products Co., handles about 6 percent of the total distribution. In all there are about 129 distributors in the Detroit sales area as defined in the old agreement, although only about 30 are within the city of Detroit proper.

(g) Boston: Two large companies, Whiting Co. and H. P. Hood & Sons, control 14 percent and 27 percent respectively of the total distribution, or a total of 41 percent. About 10 percent of the total distribution is made through the First National Stores. In addition there are about 475 small dealers in the Boston sales area.

(h) St. Louis: The St. Louis Dairy Co., a subsidiary of the National Dairy Products Corp., controls about 40 percent of the fluid milk distribution in that city.

(i) Louisville, Ky.: The largest distributor among the 23 distributors is a subsidiary of the National Dairy Products Corp. and controls about 34 percent of the total distribution.

(j) Los Angeles: The National Dairy Products Corp. occupies a strong position; a public hearing is being held in Los Angeles at the present time.

(k) Bridgeport, Conn.: The Borden Co. controls about 50 percent of the distribution (Department of Justice estimate as of 1930).

(l) Wilmington, Del.: National Dairy Products Corp. controls about 45 percent (Department of Justice estimate).

(m) Richmond, Va.: United States Dairy Products Co. controls about 59 percent of the distribution (Department of Justice estimate).

(n) Akron, Ohio.: 53 percent of the fluid milk distribution is controlled by the National Dairy Products Corp. and 39 percent by the Borden Co., making a total of 92 percent (Department of Justice estimate).

(o) Columbus, Ohio.: The Borden Co. controls 48 percent of the milk distribution (Department of Justice estimate).

(p) Milwaukee, Wis.: 33 percent of the total fluid-milk distribution is controlled by National Dairy Products Corp. and 51 percent by the Borden Co., or a total of 84 percent (Department of Justice estimate as of 1930).

(q) Denver, Colo.: The Beatrice Creamery Co. controls about 30 percent (Department of Justice estimate as of 1930).

(r) Salt Lake City and Ogden, Utah: The Pet Milk Co. controls about 36 percent.

(Representative Reece assumed the Chair.)

Acting Chairman REECE. Dr. Howe, do you wish to identify those lists and have them presented for the record?

Dr. HOWE. These charts show the proportion of total fluid milk distribution controlled in certain cities by one or two distributors in 1930.

(The charts referred to with accompanying data were marked "Exhibits Nos. 359 and 360," respectively, and are included in the appendix on pp. 3127 and 3128, respectively.)

Mr. BAUGHMAN. Dr. Howe, I show you a statement from New York and ask if you will read that into the record, please.

Dr. HOWE. This is a report to Governor Lehman by the Attorney General of New York, John J. Bennett, Jr. [reading from "Exhibit No. 361"]:

(1) Two companies, Bordens and Sheffields—

Sheffields is a major subsidiary of National Dairy Products—

sell 76 percent of all fluid milk sold at retail in the New York metropolitan area.

(2) With the addition of four more companies whose prices are invariably identical with those of Bordens and Sheffields, these companies sell 90 percent of all of the milk sold in the retail market of the New York metropolitan area.

(The report was marked "Exhibit No. 361" and is on file with the committee.)

Dr. HOWE. Witnesses appearing before Marketing Agreement hearings of the Agricultural Adjustment Administration have said, "On the face of it these two companies may control 40 or 60 percent, but in reality they control it all." They are so powerful with other agencies that they control the price which other distributors must charge, and in some cities witnesses from the spot have said, "Oh, well, there are a lot of competitors here that look like competitors, but they are really just shadow window competitors. They are kept in the market so it won't appear that there is a monopoly in that area."

It would take some time to trace that through, but I think it can be said without question that a man who gets into the fluid milk market has two things happen to him, and they happen pretty quickly. He either gets his feet in the trough as quickly as possible and accepts the conditions imposed upon him, or he is driven out of business, and in cities like Detroit and Chicago and Cleveland, where independents tried to get into the field and insisted on their right to be independents, they were pretty quickly wrecked by various devices.

Mr. BAUGHMAN. Dr. Howe, for the purposes of the record, in regard to fluid milk that always means bottled milk, does it not?

Dr. HOWE. That always means milk in bottles; yes.

Now I will restate briefly what I think those two sections aim to establish. The first is that the dairy industry was a farmer's industry up to a very short time ago. I think it is a natural farmer's industry. I think it is something that he ought to be protected to control because it is a natural farmer's industry. It is a natural farmer's industry in other countries.

Second, just as in many other monopolies, an instrument designed for one purpose was used for another purpose. And in this case a health instrument was used to create monopolistic conditions, not solely, but it was one of the implements which made it possible.

Third, the men who own that instrument did two things. They became buyers of milk and then, quite as important as that and maybe more important than that, they stepped into the manufacture of dairy products, so that they control the industry from the farmer on one side of the wall to all the things that can be done with milk on the other side of the wall.

The distributor, being a buyer and a seller, has a further interest; that is, to make as much profit from the sale of milk as possible. He does that by fixing his own prices. I think he fixes the price too high for maximum profits, but at any rate it is fixed as business prices are fixed by what the traffic will bear.

A subsidiary result of that is that our children don't get enough milk. None of us get enough milk; and the third major thing to me, believing in the Jeffersonian philosophy of equal opportunity for all, we have 50 percent of our farm population that has lost its independence. It hasn't the same independence as independent men that it had 40 years ago, and in connection with the abuses that have arisen we will show how in various places farmers couldn't even protest the marketing conditions.

Well, now, Mr. Chairman, I am ready to stop there and talk that over and see if there is anything to clear up, see if there is anything that has been overemphasized or underemphasized, to see whether we can't get the factors in the dairy industry clear in our minds.

Acting Chairman REECE. Are there any questions?

Mr. HINRICHS. Dr. Howe, you spoke of an underconsumption of milk and milk products, using an average figure of 2.44 quarts, if I remember.

Dr. HOWE. That was disclosed by a survey.

Mr. HINRICHS. That figure being an average, it actually understates the situation, doesn't it? That is, milk and milk products are among the most elastic, so far as food consumption is concerned, as related to income.

Dr. HOWE. I wish everybody agreed with you and me on that point. Yes; I think so. It is an elastic commodity.

Mr. HINRICHS. The Federal Trade Commission can find such evidence, I think, in studies made by both the Bureau of Home Economics of the Department of Agriculture and the Bureau of Labor Statistics, in a study of consumer expenditures, relating the consumption of products to the income of the families. In low-income families the consumption is, of course, very drastically below the average for the community.

Dr. HOWE. I think in Washington here they showed—this is off the record because it is just memory—they found that 14 percent of the families studied got no milk at all, because they can buy no milk at 13 cents a quart.

Mr. HINRICHS. There are one or two questions with reference to the technology of the industry that I would like to follow through with you, if I may. As I understand it, pasteurization is required by law, but pasteurization is hardly feasible except in very large enterprises except with a great waste of labor. Would that be correct as regards the technology of the industry?

Dr. HOWE. We are going to put a witness on who sells only fluid milk. He can tell you about that more clearly than I can. The

Guernsey Farmers' Cooperative in Milwaukee both pasteurize and distribute.

Mr. HINRICHS. You were speaking of the displacement of a farmer from the control of the entire process in his regulation to the production and delivery of raw milk. You regard pasteurization as the bottleneck controlling the industry. Is it feasible to think of returning this point of control to the individual farmer? If farmer control at the bottleneck is to be secured, do we have to think of something like cooperative pasteurization?

[Dr. Howe nodded his head affirmatively.]

Mr. HINRICHS. That would be correct?

Dr. HOWE. I think we could paint a picture like that. Here are the farmers' cooperatives throughout the country growing very rapidly. Around about at least 50 cities we have farmers' cooperatives who are merely bargaining associations. There are 30,000 members in one in New York and in the Fairfax Farms maybe 15,000 or 20,000, and in Philadelphia 22,000, and in Chicago and elsewhere they are well organized. All they can do is sit on one side of the table and bargain over how much the farmers are going to receive.

These farmers should be able to say, "You farmers have complete control of the industry. Now you can't complain to the Government; you can't complain to anybody else. It's your problem. Now all you need to do is to pay your farmers a good price for their milk and charge the consumers such a price in the cities as will expand your consumption to what it should be for an adequate milk consumption."

Yes; I think this is a great field for cooperatives that will work, and it requires very little capital either.

Mr. HINRICHS. You spoke of the growth of Borden's and National Dairy Products and cited the number of pasteurization plants that had been acquired. Those pasteurization plants were acquired in many instances in separate communities. They had existed under private ownership rather than cooperative ownership.

Dr. HOWE. Most of them were private. That is right, sir.

Mr. HINRICHS. And many of your smaller communities had constituted local monopolies even at the time of acquisition. Would that not be correct?

Dr. HOWE. I think the situation was the same so far as power is concerned, but it is true in those cities where I know anything about it that the locally owned pasteurization plant, responsive to public opinion and criticism and conditions there operated with some respect and some regard for the farmer at the one end and the consumer at the other. I think that was generally true.

Mr. BALLINGER. Dr. Howe, before the appearance of so-called big business in this industry could it be said that the consumer got his milk more cheaply than he got it after the appearance of financial organizations in this industry?

Dr. HOWE. I can't answer that question. My memory of milk is—but it was in not good-sized towns—that milk was distributed when I was a boy at sometimes 8, 9, and 10 cents a quart, but that is just a catch opinion. But I do know that we got good milk cheap, and there were always farmers there ready to distribute it.

They found up in Wisconsin that a drive was being put on there to pasteurize milk clear down in the villages, and the farmers got

together, and said, "Why, we know enough about what has happened in Milwaukee and Madison: that when pasteurization plants are put in villages we will be driven out of the business." So they went to the State capitol and demanded that a study be made of the whole subject to see whether milk could not be distributed in small towns without the control being in the hands of what they thought was the National Dairy Products and Borden's.

Mr. BAUGHMAN. Dr. Howe, just to be sure, you are not against pasteurization?

Dr. HOWE. Not at all. Of course not. I think it is necessary to take every possible precaution to keep milk pure.

Mr. BAUGHMAN. If it were used solely as a health agency, you are in full accord with that?

Dr. HOWE. Absolutely.

Mr. BAUGHMAN. But not to be in the control of the hands of a few.

SUGGESTIONS FOR IMPROVEMENTS IN MILK DISTRIBUTION SYSTEM

Dr. HOWE. I think it is just as necessary to have the purification of milk outside of control by the distributors as it is to have the purification of water free from private control. Supposing in every one of our cities when they put in a purification plant they leased out the filtration plant to one group of men, into which the city poured its water. That is a pretty good comparison.

Mr. BAUGHMAN. Isn't it true, before 1923, which was the entrance of what we might call big business into the industry—didn't the farmer at least get more for what he sold in reference to fluid milk than he now gets from the big distributors?

Dr. HOWE. Well, I would show by at least the Milwaukee study that the price the farmer received prior to the coming of big business was materially higher than it was subsequently. I think you will find that in one of those charts, gentlemen, the collapse of farm income in Milwaukee. Of course, he was paid for his labor, and there even the dairy farmer has some free time. When he cooperates with his neighbors to make distribution, he has some free time; and one of the things I think happened to agriculture is the farmer isn't paid for his labor as he was 40 or 50 years ago. He may have a single industry. He did a lot of things in which he got accessions to his income, and that has been stricken from him in various ways. They slaughtered their own cattle when I was a boy and sold it in the nearby towns. They sold direct their vegetables and their foods. All along the line, as to farm commodities, somebody stepped in between the farmer and his market, necessarily in the big cities, especially as to milk; so the loss must be substantial.

Mr. BAUGHMAN. So, isn't it true if the loss to the consumer might even be the same before and after the entrance of big business, you did at least have a considerable income to the farmer before?

Dr. HOWE. Well, this Milwaukee survey, which is very accurate, was true of the country as a whole. A very substantially larger income was enjoyed prior to the coming of the big distributors. By the way, Mr. Simpson, haven't you a chart? We have a chart here which shows the collapse of those incomes during those years as related to milk.

Mr. BAUGHMAN. Isn't it also further true that the price to the consumer could be less—as you say, you will show through witnesses—with a sufficient return being made to the distributor as well as the farmer?

Dr. HOWE. I think there is no doubt about that. The cost of a quart of milk could be reduced; the return to the farmer would be increased; and we would have an expansion of the sale of milk.

Acting Chairman REECE. Have the charts to which you referred been identified for the record, or do you wish to present them now for the record?

Dr. HOWE. We will present them later, as to what has happened to the farmer.

Acting Chairman REECE. Earlier you presented for the record charts 1 and 2. The charts 3 and 4 have not yet been presented for the record?

Dr. HOWE. That is all that has been presented, sir, just two.

Mr. O'CONNELL. Dr. Howe, a few moments ago you referred to the desirability of having the distribution of milk returned, so to speak, to the farmers who had it prior to the advent of big business.

Dr. HOWE. That is one thing, yes.

Mr. O'CONNELL. That, I take it, thinking in terms of what you had to say about the development of the use of cooperatives, would mean that in a situation such as now exists in New York a farmers' cooperative or cooperatives would own the pasteurization plants and control the distribution facilities for the milk in a given area in New York. Is that what you had in mind?

Dr. HOWE. That would be one way. There are a great many ways in which the pasteurization plant can be made a free carrier of milk; whether it should be cooperatively or municipally owned or otherwise controlled is a matter of indifference so long as the milk goes freely through a highway.

Mr. O'CONNELL. You think it would be a matter of indifference.

Dr. HOWE. No but that is the major objective.

Mr. O'CONNELL. What is the major objective?

Dr. HOWE. The major objective is to have milk flow freely from the producer to the community so it can be sold anyway the community wants it to be sold.

Mr. O'CONNELL. Possibly I was reading too much into your situation as to the use of cooperatives, but as you spoke, it occurred to me if we assumed the development of a cooperative in New York, let us say, so that a cooperative would own the pasteurization plant—

Dr. HOWE (interposing). The Dairymen's League does that to some extent in New York.

Mr. O'CONNELL. Who would own the facilities for distributing milk, I am not quite clear on how that situation in terms of the results to the consumer would differ from the situation that exists today except insofar as the frame of mind of the people in control might be concerned. You see what I am getting at. It seems to me you have a monopolistic condition prevailing in that situation. You didn't intend that we would go quite that far.

Dr. HOWE. At the present time I have been talking largely about the farmer, about freeing him so that he controls his industry. I

want the farmer to be his own salesman whenever he can be, his own processor, just as an automobile comes from the line in the finished product clear down to the ultimate distributor in the city. I think the farmer should have a break wherever we can give it to him, either through the cooperative or the individuals. I am coming later to various methods of distribution. What I believe should be done is that milk should be free to be bought at the doors of the pasteurization plant by farmers' cooperatives, by anyone who wants to go into the milk business, by relief administration, by hospitals, by stores, by drug stores, so that we cut out the collusive methods of distribution in the hands of one group, in other words, so that milk would continue after it got to the wholesale platform, to be distributed by just as many agencies as possible.

The consumption of cigarettes has gone up during the depression because the cigarette has so many outlets. Coca-Cola has many outlets; bread has many outlets. We have only one outlet for milk and that is fixed by two companies or a group of companies. It is right there that the difficulty is, that we haven't free wholesale buying and free distribution. We are going to show that later for Detroit.

Mr. BALLINGER. Under the present system you can't buy any milk at the pasteurization plant. You have to buy it from these big distributors?

Dr. HOWE. That is right. You can't buy it on the platform except on the permission of the big distributors.

Mr. BALLINGER. Which they won't give, generally.

Dr. HOWE. Well, you can buy it in stores generally at a differential of 1 or 2 cents, but in most cities the distributors say the store price shall be the same as the distribution price. In other words, you want to channel competition in the distribution field of milk—make it just as easy to get milk at a proper production cost.

Acting Chairman REECE (to committee members). Do you have any questions?

Mr. DOUGLAS. I would like to get Mr. Howe's thoughts on the application of the antitrust statutes to this situation. You are a lawyer. Have you given any consideration to the application of the antitrust statutes to his distributing situation?

Dr. HOWE. I guess I might almost qualify as a monopolist as well as a lawyer. As I said before, I am particeps criminis with other monopolists in that respect, for we are almost all monopolists in some way or other in this country, and I don't think you can reach this wholly through antitrust proceedings. I think it is institutional.

Mr. DOUGLAS. Why not?

Dr. HOWE. In the first place, there are 5,000 towns and cities in this country. In Chicago they began the antitrust proceedings in June or July and they have been at them since and they haven't got through their motions and demurrers in one city. Even if they get through with their proceedings out there, if I were running the dairy business in Chicago I think I could beat the game even after they get a conviction—maybe not, maybe with enough distributors in there it would tend to break it down, but only about half of the problems would then be solved.

Mr. DOUGLAS. Why is that?

Dr. HOWE. Well, generally speaking, why have not the antitrust or antimonopoly proceedings beginning in 1898 solved many of our problems?

Mr. DOUGLAS. Why do you think that has been true?

Dr. HOWE. I think they can't do it, except by having a colossal expenditure in your Department of Justice much greater than they have at the present time, summary proceedings, maybe, with not so many appeals. I will say this, I was a member of corporations that were in monopolist conditions, and whenever monopolistic proceedings were threatened against them or were started, a lawyer was called in, and I think in every case the lawyer knew what he was going to do after the decree was rendered, and was building all his plans so the next day he would start in in some other way. It is so protean, the things you can do, if you can move fast as a lawyer, much faster than the Government can move. I think it is almost impossible in a Nation as big as this. Have you read Walton Hamilton's study of the expansiveness of monopoly in the United States? I thought I knew something about the extent of monopoly, but after reading that brochure, going right straight through it, it seemed to me that every place you turned you were in a great net work of one kind of special privilege or monopolistic control.

Mr. BALLINGER. Isn't that due largely to the fact that we really don't punish people when they violate the antitrust laws? Of course we have had an enormous growth of monopoly in this country. Why? The chief reason, isn't it, is because you never do anything about it? It is only natural for people to get together to lift \$10,000,000 if the only penalty they are going to get is \$200 or a consent decree that tells them not to do it again. We have never made a determined effort. You are going to show in this hearing some witnesses who have broken through this network. In spite of hell and fair weather they have got there. Couldn't a lot more have been done if we gave them some help?

Dr. HOWE. I think so. I think you could throw fear into the minds of many people so long as they were engaged in a pool, in a cartel, in a criminal conspiracy.

Again, to be a little personal, I was the manager of a private water plant for 23 years. That was perfectly legal and I could go down to the Public Utilities Commission every so often and say I wanted an increase in rates, and they couldn't tell very much about what I told them was true or not.

I was vice president of the Cleveland Street Railway Co. What could you do about that? A company I was connected with manufactured all the equipment for battleships to be operated from the bridge. We had a copper riveted patent. We charged what the traffic would bear.

There are patents, there is exclusive ownership of corporations, the great mines that were bought up in the mining districts; there are grants and franchises; there are terminals. In New York City Mr. Amen has been at it for 5 or 6 years. He convicts these fellows, soaks them with penalties on five or six counts. The maximum penalty is a year in jail which is reduced to 11 months for good behavior; I don't know whether it is \$1,000 or \$5,000 fine. While they are in jail or in Sing Sing their relatives run the business. When they

come out again they take up the business. The business goes on while they are in there.

Mr. **BERGE**. Dr. Howe, would you abolish criminal penalties?

Dr. **HOWE**. No; but I would supplement them by trying to get rid of the strangle holds we permit in the system.

Mr. **DOUGLAS**. Supplement what—the antitrust laws?

Dr. **HOWE**. Make the antitrust laws stronger, much more drastic, much quicker in action.

Mr. **DOUGLAS**. Introduce summary action?

Dr. **HOWE**. Make it as summary as I could. As an American citizen I think we ought to have the same sovereignty over conditions in New York City, 12,000,000 people, who more or less are environed as to all the food that comes in there, by what—call them what you may, maybe they are racketeers, and we haven't power enough to do anything except indict them and put them in jail for a year. The Government ought to be as strong as the racketeers, or whatever they may be called.

Yes, I would strengthen the legal division very greatly; I would strengthen the Bureau of Criminal Investigation very greatly. I remember reading just a short time ago what a problem General Grant had in connection with the Brooklyn Navy Yard. There were great complaints about gambling and prostitution around the navy yard. He said, "Give me a little time and I will stop it." What did he do? He took some uniformed men and put them along the street there and took the names of everybody who went into those joints. It washed out in 2 or 3 days' time. That was an administrative proceeding instead of legal. It was effective.

Mr. **BERGE**. I don't recall the date, I believe it was about 15 years ago when you said the large aggregations were formed that took over the local business. Was that about 1923?

Dr. **HOWE**. Yes; '23.

Mr. **BERGE**. Did the Government do anything at that time to stop it? Was there any legal proceedings maintained under the antitrust statutes to prevent those mergers?

Dr. **HOWE**. I think there was an early case against the Milk Trust but I have forgotten about that. I am not sure.

Mr. **BERGE**. There wasn't any criminal case, was there?

Dr. **HOWE**. I don't recall, sir.

Mr. **BERGE**. Do you know of any determined efforts made during the period when these aggregations were strengthened in their power in the late twenties to stop them?

Dr. **HOWE**. I don't.

Mr. **BERGE**. Or any real effort made until this past year through the antitrust laws?

Dr. **HOWE**. I don't know of any. I pray to God that the Chicago case will be effective in cleaning that situation up there, but I think all it will do is, if they can get in the decree a limitation on the power of those who own the gateways into the city to convert them into, let's say, common carriers—it has already done that. In Chicago they are now selling milk at 8 and 9 cents a quart because of this fear hanging over the distributors. Yes; it has done that.

Mr. **BERGE**. I wouldn't want to assert the antitrust laws are necessarily sufficient to solve all these problems, but it doesn't seem to me

we are warranted in saying they wouldn't contribute substantially to it in view of the fact that there haven't been any substantial efforts to do it until this time. I just wondered if you didn't go a bit further than you intended to in your initial statement when you said you thought the antitrust method was quite inadequate. It may be that there can be some more ideal solution of the milk problem worked out, some entirely different system of distribution, but until that is done, don't you think that a vigorous enforcement of the antitrust laws could do a good deal?

Dr. HOWE. I think yes; and I think if you develop a technique of operation with the Bureau of Investigation that you could frighten men in a great many cities into abandoning their monopolistic practices. But I don't know whether the Department of Justice has authority to do so. I don't know whether it is to be given power to do so.

Mr. DOUGLAS. Power to do what?

Dr. HOWE. We are protected so completely by the law itself, you know. The civil liberties are so protective in the minds of the court that you have to move with so much circumspection in connection with legal proceedings.

Mr. DOUGLAS. Doesn't it come down to this: that your conclusions are based upon the fact that purely sporadic attempts to enforce the antitrust laws are not going to be successful? It has to be a continuous process.

Dr. HOWE. I think that is true.

Mr. DOUGLAS. And a continuous process hasn't been applied or tried.

Dr. HOWE. I don't think it has. Let me state it, if I can, as I would like to have it stated. I think generally the major monopolies are inside of the law; inside of the tariff laws, let us say, inside of your patent laws, inside of your franchise grants.

Mr. BALLINGER. Are they inside the law? The tariff may promote a trust, but when the trust exists it is not outside the law.

Dr. HOWE. I am thinking about competition instead of that. That is true. In other words, I think if the old philosophy existed of subjecting big groups as well as little ones to potential competition or real competition, that many of the monopolies would collapse by virtue of that fact.

Coming to the direct question, I haven't thought about it except from the other side of the fence, and I think it was pretty generally felt among men that I knew as a lawyer that they could keep ahead of the Government pretty well as to antitrust proceedings. Now let's assume that the Department of Justice could be given large power, and again I am just speaking without much thought about it. If the Department of Justice could move with the celerity of an administrative agency, we have that in many branches of the Government. If the punishments were added to—more than a year in jail and more than a \$5,000 fine. A monopoly can pay a \$5,000 fine very easily but men don't like to go to jail. In other words, if the Department of Justice could move rapidly, quickly, and surely and its punishment were adequate, I think you would have a great state of fear thrown into monopolistic enterprises. Yes; I think that that is true.

Mr. **BERGE**. Of course, Dr. Howe, I thoroughly agree that it would be a fine thing if we could speed up the judicial processes and the processes of litigation. We ought to do everything we can to do it, but I wonder if you are warranted in assuming that the administrative process through the commission type of regulation moves any faster, because I have in mind the *Boston milk cases* where the other type of control is applied to the milk industry, and although our Department has also handled those cases, they have been in court now almost a year longer than the *Chicago milk case*, and I fear we encounter the same difficulties in any type of regulation that is subject to judicial review. I think it well for us to put our heads together to try to quicken that process, but I don't think we can just assert dogmatically that the prosecution is any slower than the processes of regulation by administrative agency.

Dr. **HOWE**. Again, let me make that a little clearer, because I haven't thought about this much. There is in the Department of Agriculture a system of licensing, I believe, of vegetable products—licensing receivers at terminals. That is administrative. A businessman would possibly be more willing to face a lawsuit than he would be to have his license to do business taken from him, or any members of his family, and I think something like that is applied as to these receivers of farm commodities at the terminals. That is more nearly what I mean by administrative procedure, that you would have an agency of the Government, let's call it a milk authority, who would have power at least to suspend people until they had established that they were operating properly.

Mr. **BERGE**. They could probably enjoin suspension, couldn't they, and get judicial review in that way?

Dr. **HOWE**. I don't know what litigation has followed that administrative procedure but I would try to find some administrative procedure that moved as rapidly as a monopoly itself moves. Can we equip the Government so it can move as rapidly and effectively as a private individual can?

Mr. **BERGE**. I agree it is very difficult, but I would even want to go slow in assuming that we can beat it easily merely by adopting a license procedure or any procedure that is subject to judicial review, and I think any procedure that withdrew the right to do business, even temporarily, probably would be. However, I merely offer that in passing.

Dr. **HOWE**. Maybe that brings it back, sir, to the fact that I think we make much better progress if we study it as an economic and institutional problem, with the legal procedure as part of the whole general program.

Acting Chairman **REECE**. It is now 12 o'clock, Mr. Ballinger. Mr. Howe, I presume, will be available for the afternoon, if it should be desired to ask him further questions. What is the pleasure of the committee?

Dr. **HOWE**. I just want to clear up that last point, because I don't want to leave the impression that I have a disregard for the law or criticism of its methods except that, as I see it, it is slow, it is tedious, it is subject to so many methods of defeat that up to the present time we haven't found a technic, at least.

Acting Chairman REECE. I am sure, Dr. Howe, those who have had the pleasure of knowing you over a period of years entertain no idea that you have any disregard and disrespect for the law or the courts.

The committee will stand adjourned until 2 o'clock.

(Whereupon, at 12 noon, a recess was taken until 2 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at 2:20 p. m., upon the expiration of the recess.

Acting Chairman REECE. Are you ready to proceed, Mr. Ballinger?

Mr. BALLINGER. Mr. Chairman, before we go on this afternoon I would like to ask Dr. Howe just a few questions. I know Dr. Howe's economic philosophy pretty well, and this morning I think there might be some misinterpretation of what Dr. Howe said, and I would just like to get it straightened out for the record, not only for the protection of Dr. Howe but for the fact that Dr. Howe is appearing as a witness for the Federal Trade Commission, so if I may have the privilege of asking a few questions, I would appreciate it very much.

Acting Chairman REECE. That will be satisfactory.

Mr. BALLINGER. Dr. Howe, you believe in the competitive system in general, do you, in industry?

Dr. HOWE. I guess I believe in that more strongly than in anything else.

Mr. BALLINGER. You believe it should be protected and preserved?

Dr. HOWE. I think the first responsibility of government is that. I started out with the Jeffersonian formula, equal opportunity for all, special privilege for none, and that is one of the functions of the Government.

Mr. BALLINGER. From your testimony this morning, the interpretation might be put that you feel that it is a sort of hopeless job to go after monopoly and to track it down relentlessly and put it out of business. You don't think the matter is hopeless, do you?

Dr. HOWE. No; I didn't say that. I said—I intended to say—that I felt the Government should be strengthened in all of its powers so that it at least stood on a par of equality with these abuses, and that it should be implemented through proper agencies to be able to act more quickly than it does now, to act more widely than it does now, and to assert its power to end abuses, whether that is through the Department of Justice, through an administrative agency like the Federal Trade Commission or the S. E. C., or through whatever agency is created. I believe in a dual approach to it, possibly, that is, one through the Department of Justice, highly implemented, and one through an administrative agency, and, while I am not familiar with the Federal Trade Commission, I think a cease and desist order is one type of approach.

It seems to me without knowing much about it that the S. E. C. has developed a technique of administrative control, but I am not very familiar with that subject.

Mr. BALLINGER. The impression might also be gotten from your testimony this morning that you think that existing antitrust laws are incapable of coping with the situation. You don't mean that if

the agencies enforcing these laws were given enough money adequately to enforce them and if these laws were given a reasonable construction by the courts, that the existing laws would not be able to do a great deal toward breaking up restraints of trade and industry.

Dr. HOWE. I think if the Department of Justice were given the power, and the Court possibly should reinterpret some of its decisions, that minatory action would lead to desistance in very many monopolistic practices.

Mr. BALLINGER. And you believe in the better effect of good sharp penalties in these laws?

Dr. HOWE. Absolutely.

Mr. BALLINGER. One other question. In other words, as I gathered from your philosophy—and I say I do know it—you feel that the existing law should be supplemented by additional laws which will try to take out of the hands of monopolists the ingredients with which they manufacture monopoly. To give you a specific example, the situation you have been describing in milk today, if we had had section 7 or could have enforced section 7—they couldn't because the courts wouldn't let us enforce it—the very conditions you are describing might not have come about. If we had prevented the right of merger, combination, purchase of competitors' assets, and so forth, the condition which you describe might have been seriously mitigated, wouldn't it?

Dr. HOWE. I haven't thought about it much, but I think a good deal of our trouble is traceable back to the device of the New Jersey and Delaware and some other State laws which permitted holding companies, that our monopoly problem would not have been nearly as serious if it had not been possible for that to be done.

Mr. BALLINGER. In other words, what you are saying is not that the antitrust laws are bad but we need good antitrust laws and more of them. Is that it?

Dr. HOWE. I would endow the Government through any of these agencies—yes; antitrust laws—to enforce its decrees, especially as to food. I believe sovereignty ought to be with the State in civil affairs as well as external affairs.

Mr. BALLINGER. All right. Thank you, Dr. Howe. Mr. Baughman has a question.

Mr. BAUGHMAN. Dr. Howe, along the same line, there has been an effort made—for example, the bill introduced last year, H. R. 8311—to strengthen cooperatives along the Capper-Volstead lines. Would you think that if that were done that might assist in this problem against monopoly, strengthening the cooperatives?

Dr. HOWE. Well, it is part of my philosophy that the simple approach to a correction of many abuses—and the most dramatic that I know—is through the cooperatives, through the voluntary association of people to control their own industry just as we are now doing throughout the West as to many farm commodities. I think that is a basic philosophy.

Mr. BALLINGER. All right; Dr. Howe, will you proceed with the discussion you started this morning?

Mr. O'CONNELL. May I ask a question? Reverting again to your discussion of the antitrust laws and the question of whether adequate enforcement of the existing antitrust laws would be adequate or

comparatively adequate to deal with the situation, it seems to me that we should be entirely clear—at least I got the impression from your discussion—that you also contemplated certain specific amendments to the antitrust laws which would be entirely in keeping with the theory of the Sherman Act and Clayton Act, and so forth, but in order to further implement existing laws; that is, you weren't of the opinion, were you, that adequate enforcement of the existing statutory legislation on the subject would be all that would be necessary to meet the problem insofar as antitrust laws are concerned?

Dr. HOWE. I don't think that I am well enough informed to say whether the present laws are adequate to meet the situation as on the statute books and as interpreted by the courts. I don't know whether I know enough about that, but my impression is that the laws were simple enough when they were originally drawn, as were the powers given to various agencies of the Government; but that those powers have been somewhat lost in their effectiveness by judicial interpretation and otherwise, and I would correct, so far as possible, court decisions which had whittled away the power of the Department of Justice.

Mr. O'CONNELL. Your suggestion relative to the result of court decisions on the antitrust laws would seem to me to naturally lead to the proposition that the way to get at such a situation is by legislation. There is no constitutional question involved in those cases.

Dr. HOWE. That is right.

Mr. O'CONNELL. You have two possibilities, one being legislation, another being reversal of court decisions by the court itself. It seemed to me that the legislative approach, since there is no constitutional question involved, is much the simpler one.

Dr. HOWE. I hope so. I think so. I think that is the first approach, yes. Of course, I think, too, that the Department of Justice should be implemented with rapid action so that they can reach a conclusion immediately, just as I think the three-court decisions enacted by the last Congress speeded up litigation insofar as it affected the constitutional question. Is that not true?

Mr. O'CONNELL. Yes; when I was speaking of legislation I was speaking of it broadly, the possibility of revision of the substantive antitrust laws as well as the laws providing for the enforcement of those laws; in other words, the procedural mechanism, which involves procedures by the Department of Justice, also used by the Federal Trade Commission, is a part of the antitrust laws as I was using the term "procedural" as distinguished from provisions of the Sherman Act, which is a substantive law, but when I was thinking of legislation I thought you meant, and I certainly meant, both fields.

Dr. HOWE. I certainly do, and I have great confidence in an administrative machinery like the Federal Trade Commission or the S. E. C.; that moves, you know; that is administratively handling an administrative problem, and these problems are pretty largely the kind of things that businessmen are dealing with, on one hand, and they ought to be dealt with, on the other hand, by the same sort of authority in a general way.

Mr. O'CONNELL. Of course, all this discussion assumes that we both think, and I think we do, that the approach to the problem is

one intended to preserve and restore, to the extent that it can be done, a competitive system; I mean it assumes that, does it not?

Dr. HOWE. Thoroughly; I thoroughly agree with that.
(Senator O'Mahoney resumed the Chair.)

FLUID MILK PRICES IN LARGE CITIES

Dr. HOWE. We completed one section this morning. We step now into section 2, which relates to fluid milk and also the present cost of a quart of fluid milk and the possible cost of a quart of fluid milk. There is an exhibit which might be introduced now, which shows the price of a quart of milk in 12 cities. It is entitled "What does a quart of milk cost and what does the farmer get from it?"

(The exhibit referred to was marked "Exhibit No. 362" and is included in the appendix on p. 3128.)

Dr. HOWE. That is interesting because in the depression period here the price charged the consumer for a bottle or a quart of milk delivered at the doorsteps averaged for 12 cities 12 $\frac{1}{3}$ cents. It rose to 13 cents in 7 cities and was as low as 10.50 in 1 city. The Detroit price of 10.50, I suspect, is due to the fact that we had competition there—

The CHAIRMAN (interposing). You are referring to "Exhibit No. 362"?

Dr. HOWE. Yes.

I think there are some cities higher than that and some that are lower.

The CHAIRMAN. Have you discussed to what extent your studies indicate that these prices are fixed, if I may use that word, by the distributors in the belief that they must do that in order to stay in business, and to what extent they are fixed according to the old principle of charging whatever the traffic will bear?

Dr. HOWE. I would accept your last statement, Senator, that this is an arbitrarily fixed price by the distributors in control of the market.

The CHAIRMAN. Is it your conclusion, after all your studies, that distributors maintain the price of milk at an excessively high figure which is not warranted by the cost of production?

Dr. HOWE. It is.

The CHAIRMAN. Have you made any suggestion as to what could be done to bring the price of delivered milk down to a more reasonable figure, which would not include any accretions due to arbitrary agreements or arbitrary fixation of price?

Dr. HOWE. Approach? Well, Senator, I have; yes, of course, I have.

The CHAIRMAN. I would be very glad to have your suggestion, and so would the committee.

Dr. HOWE. Suppose I follow through this section shortly, because it comes right along.

The CHAIRMAN. Certainly.

Dr. HOWE. From this statement here it appears that the farmer was paid for class 1 milk. I assume the committee knows what class 1 milk is. Class 1 milk is the price which the farmer is paid for so much of his milk as goes into bottles. Class 2 milk, or other classifications, is the price which the processor or pasteurization plant

pays for milk which is used for cream, ice cream, butter, cheese, evaporated milk, condensed milk, casein milk, and other forms of dairy products.

The CHAIRMAN. Does the farmer know how much goes into bottles and how much is used for these other purposes? Has he any means of checking that?

Dr. HOWE. He knows what he receives in his pay check from 2 to 6 weeks after he has made his deliveries.

The CHAIRMAN. In other words, he is dependent upon the decision of the purchaser of his milk.

Dr. HOWE. I think so. I know of no control that he has anywhere over the bookkeeping.

The CHAIRMAN. In other words, he has the same sort of complaint, if one wants to use that word, that the western miner has with respect to the return which he receives upon his ore from the smelter. He is dependent not upon any check that he may make or that is made by any public institution but by the report which the smelter gives him as to the classification.

Dr. HOWE. That is the system under which the farmer is paid as to about 40,000,000 quarts of milk that goes into all uses, and it is my understanding that it exists all over the country as a universal practice. I am going to discuss that at considerable length, because I think it lies pretty close to the heart of this problem.

Mr. DAVIS. Doctor, along the lines of the questions asked by Senator O'Mahoney, I want to ask you if you are familiar with the fact that during an investigation made by the Federal Trade Commission pursuant to congressional resolution, facts were developed showing that distributors at least in certain areas had specifically refused to permit representatives of the farm cooperative associations to inspect the books of the distributors to see whether the division had been properly made under the classification of the different grades of milk which accounted for the different prices received by the producer.

Dr. HOWE. I think it is in the Philadelphia area, specifically, in which the farmers' cooperative was unable to get permission, contractual permission, to examine the books at all. I think that is pretty general. More than that, even if they wanted to find out, in New York State there are nine classifications, and it would take a force of expert accountants who would have to be on the books all the time breaking that down. As to whether it can be done or not I don't know, but so far as I know I have never heard of a thorough job of protection being got by any farmers' cooperative. I may be wrong about that, but I never happen to have heard of it.

Mr. DAVIS. Speaking further with respect to class 1 milk and other classifications, or class A or class B, and so forth, as it is frequently called, it is a fact, is it not, that those different grade milks, so-called, are identical in quality, all the same kind of milk?

Dr. HOWE. It is all the same milk; it comes from the same cows, goes through the same health inspection, and is the same milk.

Mr. DAVIS. In other words, the price classification has no relation to any difference in quality, because there is no difference in quality.

Dr. HOWE. No. There may be a little difference as to butterfat; there is a higher payment for high butterfat. So far as the milk is concerned, it is all the same milk; it goes through the same processes.

Mr. **BERGE**. Do the dairies make any effort to segregate the milk of a particular farmer and pay him according to the use to which that milk is put, or do they pay a particular farmer on the basis of a blended price based on all of the milk they sell? Suppose they sell 60 percent to class 1 use and 40 percent to class 2 use of all the milk they handle, would they strike a difference and pay the farmer an average price midway between the class 1 and class 2 prices, or would they try to segregate the milk of those farmers that went to class 1 use and pay them a higher price than the other farmers? What is the normal process in a market where there is no regulation?

Dr. **HOWE**. The normal process is for the milk to be brought in from the cooling stations or direct from the farmer. It is tested and poured into the pasteurization plant where it is heated and cooled. Some of it goes into bottles, some of it into cream, some of it goes into ice cream, some of it goes into other uses. Out on the farm where they may be producing other qualities it may not go through the pasteurization plant, but these big buyers—so far as I know, it is all the same milk, handled in the same way.

Mr. **DAVIS**. Doctor, is it not a fact that these distributors decline to make a classification direct to the farmers such as is suggested by Mr. Berge, but if they agree to take a man's milk, he delivers the milk to them and he doesn't know how it is going to be divided or segregated or priced until he receives his pay check?

Dr. **HOWE**. That is an absolute statement of it, sir.

Mr. **DAVIS**. In other words, the division, the segregation of the different classes for the purpose of fixing a price, is a matter wholly within the processes of the distributors over which the farmer has no control?

Dr. **HOWE**. Yes; and I have heard it said by farmers, and this may or may not be accepted, at various milk hearings, that if they protested that they weren't being paid as they should be paid, it was suggested to them, "Well, if you don't like it, take your milk some place else." In other words, they are up against a situation in which they can't complain because they have established a market with certain distributors, and if they make any complaint—even in Philadelphia, they testified, "If we had a little organization of our own out there complaining about the base or distribution, or complaining about the method of payment, we lose their market." That is a kind of threat that is held over them in El Paso and elsewhere.

Mr. **BERGE**. If the dairies were willing, would it be physically possible to trace the milk of a particular farmer and know whether it went into a fluid milk use or whether it went into butter or cheese?

Dr. **HOWE**. A particular farmer knows that of his milk, if he brought in 1,000 gallons, what they had allotted to him as class 1, so at the end of the time when he is paid they would say, if he brought in 1,000 gallons and has a base of 50, 500 gallons are to be paid for at class 1. All the milk was mixed with other farmers' milk.

Mr. **FERGUSON**. Isn't it a purely arbitrary decision?

Dr. **HOWE**. It is made by the distributor without consultation with anybody else except insofar as he cooperates with the farmers' cooperative as to fixing prices. Yes; they could give me a high base and give you a low base for the same milk.

As to this chart (referring to "Exhibit No. 362"), the farmer got 5.55 cents for his class 1 milk. The prices charged the consumer were

12.33 cents, while the spread, the distribution cost, was 6.78 cents. That means that the average price charged the consumer was nearly 7 cents more than the farmer got, and the distributor got 1.19 cents more than the farmer got.

But that isn't really an accurate picture of the situation, for these are f. o. b. city plant prices. Out of this price of 5.55 cents there is deducted hauling charges, sometimes terminal charges, cooling charges and other charges which, in the Baltimore study, ranged from half a cent to three-quarters of a cent a quart, so that you will have to deduct from this 5.55 cents to the farmer maybe half a cent or maybe three-quarters of a cent, and a quarter of a cent means a whole lot to the farmer in connection with his milk.

In addition to this study made by the Federal Trade Commission, which is the most accurate that has been made, there was a study made in 1934 of 40 cities. I think the prices then were lower than they are today. It showed that in 17 cities the farmer received as a class 1 price between 3 and 4 cents a quart; in 12 cities between 4 and 5 cents a quart; in 3 cities between 5 and 6 cents a quart; and in 8 cities between 6 and 7 cents a quart. The retail prices for house delivery ranged from 9 cents to 13 cents a quart.

That is a general picture of the country as a whole under the present distributive system.

The CHAIRMAN. Have you made any investigation of the elements which go into the spread?

Dr. HOWE. I am just coming to that, sir.

It may be wondered why there aren't a whole lot of exhibits of a free competitive industry determining price under competitive cost conditions.

The CHAIRMAN. By the way, we hear frequently of the prize fights which are held for the benefit of the so-called milk fund. Do you know whether or not these philanthropists who patronize such prize fights pay the farmers' or the distributors' price for the milk which goes to the child?

Dr. HOWE. I don't know that, Senator.

Ever since the Senate inquiry into milk, of which Senator King was a member, we have been milk-conscious in this country. I think that started the concern over milk. Then followed the Federal Trade Commission's inquiries and the Department of Justice and the Department of Agriculture. But that was the starting point. We didn't question it very much up to that time. It was generally assumed by many people: If this is the prevailing price it must be a reasonably proper price.

Beginning, however, in 1933 and 1934, when people were poor, men began to try to sell milk in different ways, in other words to break into this market and sell milk in any way they could sell it. I am going to talk about two kinds of approaches to a proper cost of milk. Both of them are a businessman's approach. I am presenting them as if I were going into the milk industry, to find out what it would cost me to provide the public with the commodity which the public wanted. First we have the farmer's price. The next is the plant or processing cost after the milk is delivered to the pasteurization plant. We have a good many accountant's studies of that. The most authoritative is the one made in New York State in 1933 and

1934. It was made for the Milk Authorities. It showed plant costs, not including bottle costs, of 0.79 cent a quart in 30 New York City plants, and 0.7 cent a quart in 22 up-State plants. That was less than a cent a quart for receiving milk, heating, and cooling, and bottling it. Then it was placed in containers on the platform of the distribution station to be picked up, either by the big distributors who controlled the situation, or by vendors, to whom they might sell it at a wholesale price. The distributors also made the distributions to stores.

Now this New York figure, lest it may be questioned, was for 84,000,000 quarts of milk. It gave the labor cost, the fuel and power, ice and refrigeration, supplies, depreciation, repairs, rents, taxes, insurance, miscellaneous expenses, and it totaled 0.79 cent. A similar break-down of the up-State plants is also given here.

We made several different inquiries and satisfied as I am as to those figures, we are going to put on tomorrow morning a witness and ask him to break down the plant costs and see whether or not they confirm the accountants' studies. It is my opinion that actual operating costs would be lower than anything that the accountants might get, for one reason: It is part of our record here that operating costs of the distributors are frequently plowed into fluid milk to raise an excessive plant cost. I am quoting one of the various Government reports that made that statement. Of course, I am not able to say it from personal experience.

The CHAIRMAN. To what report do you refer?

Dr. HOWE. I think it was in the Federal Trade Commission on milk. I have it somewhere in here just where that is.

Mr. BALLINGER. You mean that milk would be loaded with charges that ought to go to the making of cheese and butter, and so forth, in order to sustain the statement often made that there is very little profit in fluid milk?

COST OF FLUID MILK UNDER FREE COMPETITIVE CONDITIONS

Dr. HOWE. That is right.

Now, I have a chart here which shows the cost of a quart of milk ready for delivery by store or wagon under free competitive conditions. That is with milk at 4, 5, and 6 cents a quart for class-1 milk. This shows that with a farmers' price of 4 cents, milk is ready for wholesale delivery at 4.79 cents; 5-cent milk at 5.79 cents; 6-cent milk at 6.79 cents.

Mr. BALLINGER. Do you wish to offer that for the record?

Dr. HOWE. I will offer that for the record.

The CHAIRMAN. It may be received.

(The chart referred to was marked "Exhibit No. 363" and is included in the appendix on p. 3129.)

Dr. HOWE. From the data contained in "Exhibit No. 363," we can calculate what should be the price of milk based upon the price paid the farmer in the average American city. The only item as to which there would be substantial difference is the cost of the raw milk.

The break-down of costs is as follows:

(1) Cost of raw milk f. o. b. the plant (quart), 4, 5, or 6 cents.

- (2) Pasturizing, bottling, and plant costs (New York Survey, 1933) (quart), 0.79 cent.
- (3) Wholesale cost of a quart of pasteurized milk at the plant, ready for delivery:

| | <i>Cents</i> | <i>Cents</i> | <i>Cents</i> |
|---------------------------------|--------------|--------------|--------------|
| Farmers' price | 4.00 | 5.00 | 6.00 |
| Plant cost, New York study..... | .79 | .79 | .79 |
| Total..... | 4.79 | 5.79 | 6.79 |

We now have a cost break-down for a quart of milk ready for delivery at the pasteurization plant.

In the majority of cities, the total price at the plant would range from a low of 5 cents a quart to a high of 7 cents a quart, depending upon the price paid the farmer.

In Milwaukee, an exhaustive milk survey was made, by various agencies of the Government, of fluid milk. Upwards of 2 years were devoted to the survey. By necessity, the study was from the books of the distributors.

The Milwaukee report includes a calculation of costs of plant operation and the savings possible through a unification of distribution from one to two trucks to a block. This estimate showed that Milwaukee milk could be delivered by house-to-house delivery at 7 cents a quart, and at slightly less than this price over the counter.

The build-up of the sales price is arrived at as follows:

| | Low, per quart | High, per quart |
|--|----------------------|-----------------------|
| | <i>Cents</i> | <i>Cents</i> |
| Price to farmers..... | 4.4 | 4.4 |
| Plant and pasteurization cost (average)..... | 1.014 | 1.014 |
| Wages distribution cost (under consolidation of wagon routes)..... | 1.26 | 1.9 |
| Total production and distribution cost..... | 6.674 | 7.314 |

There remains only the cost of delivery. The distributors insist upon wagon delivery. They oppose sales through stores in every way possible; in most cities they refuse to permit a lower price over the counter than that charged by wagon delivery. When forced to make concessions, they allow the stores a differential of from 1 to 2 cents a quart.

It is from this point on that the big spread appears—a spread which averaged 6.82 cents a quart for 12 of our largest cities. It is here, too, that controversies arise over cost. It is in this item that gains to the farmer and consumer are to be found, and an increase in consumption is to be promoted.

Now this distribution system is a luxury distribution. It is designed for persons of wealth to whom a few cents a day is of no importance and who choose to have their milk delivered at their doorstep. The companies insist that this luxury method of distribution shall prevail, even though it does deny a large part of our population access to milk at a price which they can pay.

It is in the maintenance of this type of monopoly distribution that most of the racketeering abuses as to fluid milk are found.

In order to maintain this method of distribution, the distributors:

- (1) Refuse to permit milk to be bought at the plant at its production wholesale cost.
- (2) They refuse supply to any distributors but themselves.
- (3) They fix the price so high that neither the stores nor independent distributors can enter this field.

In effect, 70,000,000 people are compelled to buy their milk in the way the big distributors command, and to buy it in the most expensive way possible.

There remain costs and abuse in connection with house-to-house delivery insisted on by the distributors. In practically every city there are many trucks which deliver milk on the same block. The number depends upon the number of distributors in the market. An exact study of this duplication was made in the city of Milwaukee as of March 16, 1934. It showed:

1. Considerably more than half the number of routes were between 35 and 64.9 miles in length.

2. In 1,020 selected blocks, there were an average of 6.8 companies making deliveries in each block. In an extreme case 17 companies were found to be competing in the same block.

3. In 201 blocks deliveries were made by an average of 7.6 trucks per block.

4. None of the 25 wards studied were served by less than 10 distributors. There were 21 distributors in 2 wards. There were 25 distributors in 8 or more wards. There were 8 distributors who had customers in 21 wards.

5. Reduced to individual premises, there were 996 premises on which duplication of delivery occurred.

Each of these trucks involved wages and other costs of possibly \$8 a day.

A study was made in Milwaukee of possible economies from a unification of house-to-house delivery, and it was found that a reduction of 2 cents a quart would be possible under such a consolidation of routes with a house-to-house delivery price of 7 cents a quart.

I think I have pretty nearly come to my general economic philosophy.

Mr. BALLINGER. Dr. Howe, did you bring out these spreads very clearly? You told how much went to the farmer. What is the cost of pasteurization, what is the spread from the pasteurization plant to the ultimate consumers?

Dr. HOWE. You can take the first chart which I introduced here¹ showing a spread of 6.82 and if you add to the farmers' average price, 5.5—

If you add further plant costs to your quart cost to the farmer, you would then have the spread beyond that for actual distribution, whether it is distribution to stores or distribution on the wagon. It would be approximately 6 cents, I think, after all plant costs.

Mr. BAUGHMAN. Of course, Dr. Howe, there should be some allowance there for profit to the company.

Dr. HOWE. Yes; insofar as that isn't taken care of in these calculations of 0.79 cent. That includes bottle losses where bottles are given away free.

¹ "Exhibit No. 362," appendix, p. 3128.

Let's see if anything else should go in there. Depreciation was in this calculation. This witness from Detroit who has a relatively small plant in comparison with a big plant, stated yesterday that his plant costs were less than half a cent a quart, 0.44 of a cent, so that is rather confirmative of these cost studies made by accountants.

I made two or three other studies of that in different ways, and it all seems to break down about the same, except in Milwaukee where the whole study was made against the costs of the plants, and they had to dig it out as well as they could. There the total plant costs were a little over 1 cent, but nowhere do those plant costs, as far as I have been able to ascertain, rise above from 5 mills to 10 mills a quart, leaving the rest of this spread for delivery costs.

Now, I come really to my feeling about milk, the feeling I have about the general economic system. We have got milk here ready to be used, ready to be bought. It is on the back platform of pasteurization plants operating in a freely competitive system. That is the kind of condition which in part exists in Chicago. It existed in 1933 and 1934. People then came to the pasteurization plant and bought milk at wholesale, and then distributed it in any way they saw fit. They had a lot of trouble in doing it, but hundreds of plants, shops, sprang up in the city in a very short time. They were presided over by poor people, people on relief. There were some brokers there. They sprang up principally in the poorest sections of the city, but they went directly to the plant and bought their milk at wholesale.

Outside of the city of Chicago, uncontrolled by the health officials, there were other plants where people could go and buy as much milk as they wanted to just as though they were dealers, so they did have a kind of exhibit under very difficult circumstances of people being able to buy from three plants inside the city freely at a wholesale market.

Now, what happened? Lots of different kinds of distribution sprang up. Stores got their milk freely because the big distributors could not control these three distributors. They sold at a competitive price over the counter with a spread of about 1 cent. It was a fine exhibition of a new kind of dairy life being introduced so far as the consumers were concerned.

I drove around in the sections of the city there, and I saw lots of interesting things that are suggestive of what in an uncontrolled system—if we could just get some police protection so that men could get into industries—well, you would see on the windows of these little dairy shops milk, 6 cents a quart, or 6½ cents, 23 cents a gallon, a low price for cream. Inside you found women presiding over those counters, and men too.

A very large consumption of new milk sprang up according to the distributors. I hesitate to recall how much they said of new milk came into the market, because poor people were able to buy milk at that price.

Now, I might just as well anticipate the recent subsequent statement of that. We¹ held hearings in Chicago at that time on a milk-marketing agreement, and there appeared before the agencies of A. A. A.—

¹ Dr. Howe was formerly Consumers Counsel for Agricultural Adjustment Administration.

Mr. FERGUSON (interposing). We, Dr. Howe?

Dr. HOWE. Well, the A. A. A. held milk-marketing agreements there as it did elsewhere. There sprang right out of the audience—it was a big hearing; the public and the people were apparently very much interested—and these women came forward, and they said: “Well, the windows of our shops were broken last night” or “last week.” “Somebody broke in and spread red ink all over our property.” Later their stores were picketed up and down—the pickets said it was unfair competition.

There was one man who said some other things pretty much rougher than that, but the attempt to destroy these industries was a combination apparently of the distributors, the truckmen’s union, the bottle exchange and a variety of other agencies. They wanted to put these industries out of business. The industry, by the way testified as to how much money they made and how rapidly they made it even at that low plant cost—ranged about 1 cent.

Mr. BAUGHMAN. Dr. Howe, for what price were they selling this milk in these small shops?

Dr. HOWE. At 6 cents, 6½ cents, 23 cents a gallon; sometimes 7 cents.

Mr. BAUGHMAN. Was the farmers’ price being maintained?

Dr. HOWE. 4.2 cents a quart. At least that was the figure that was introduced into their cost set-up which they gave in great detail at the hearing. They weren’t cross-examined; their statements weren’t criticized. Big distributors were there. Their attorneys were there, so it is reasonable to assume that they were telling the truth.

Convincing as that was to me, we have some other convincing testimony. In Grand Rapids the relief administration entered into a contract with a man by the name of Johnson¹ to buy his milk directly from the farmer, pasteurize it, and bring it to various distribution stations throughout the city. He built little dairy shops which cost about \$200, with a big refrigeration box inside. The milk was actually distributed by relief workers who were there in the morning and in the afternoon. His sole contract was to bring milk to the refrigeration plant, proper bacterial count, and proper butterfat content, and he was paid for wholesale milk. At the beginning he delivered his milk for 4.9 cents a quart. The price subsequently went up to 5.2 cents. He is the man who told me at that time that the feeding of children of a quart of milk a day made the children blossom as plants blossom when you water them. He also made the statement that when the children had all the milk they needed that the relief children were the best-looking children in the schools and—maybe I got this wrong—that the cost of the milk almost paid the previous doctor’s bill, something like that. But at any rate they did have a plan in Grand Rapids of providing a quart of milk a day to children on relief, and that, with some bread, was about all they furnished.

Mr. DAVIS. Dr. Howe, I want to get this clear. You speak about this independent distributor being paid 4.9 cents per quart of milk. How was that, for all of his milk?

Dr. HOWE. Oh, yes.

Mr. DAVIS. In that connection you filed, I believe, “Exhibit No. 362,” the price received by farmers in various different cities and the

¹ See testimony of Mr. Johnson, *infra*, p. 2829 et seq.

price paid by consumers for grade 1 milk, and you went on to explain that the farmers were paid on the basis of the grade 1 milk and of grade 2 or subsequent grades, so-called. Will you give the committee some indication about the relative price received by the farmers for the subsequent grades as compared with grade 1 milk? Have you anything with you on that?

Dr. HOWE. I am glad you asked that question, sir. This man was delivering relief milk. When you get Johnson on the stand tomorrow you will find that he was not manufacturing butter. He claimed in Grand Rapids that he paid a little more than the established price to the farmer.

Mr. DAVIS. I understand; but I am talking about these other instances here in which you have given the price which the distributors pay in certain areas for grade 1 milk. Can you give us some information as to what in those same areas they paid for the milk that was graded below grade 1?

Dr. HOWE. I think this is a good place to introduce a chart which Mr. Simpson has prepared, and I will ask him if he will be willing to interpret it, because that is very important and might just as well come in here as at any place. It is very illuminating, Mr. Commissioner, as to the fact that he doesn't get what he hopes to get.

TESTIMONY OF KEMPER SIMPSON, ECONOMIST, FEDERAL TRADE COMMISSION, WASHINGTON, D. C.

RETAIL AND PRICE RECEIVED BY FARMER FOR FLUID MILK

Mr. SIMPSON. These charts tell a little more than just that story, and I am wondering if you would like to have the whole picture or only an answer to the Commissioner's question with regard to the relation between the class 1 price and the net price which the farmer actually receives. Would you like to have an interpretation of the chart as a whole?

Mr. DAVIS. Yes.

Mr. SIMPSON. I think that will help.

We prepared two exhibits, one relating to New York and one relating to Milwaukee. They tell the facts with regard to a quart of fresh milk. These two cities we feel are fairly representative of the United States as a whole. Certain other estimates, which are not quite so reliable, bear out the general conclusions in these two charts.

The CHAIRMAN. May I interrupt you to ask whether this chart was placed in the record this morning?

Mr. SIMPSON. We can introduce it.

The CHAIRMAN. You will offer them at the proper time?

Mr. BALLINGER. We will offer them right now.

The CHAIRMAN. Very well; they may be received. Please describe the chart.

Mr. SIMPSON. Chart III, Price of Fresh Milk in New York on Quart Basis.

(The chart referred to, with accompanying data, were marked "Exhibit No. 364" and are included in the appendix, on pp. 3130-3131.)

Mr. SIMPSON. We selected two cities. We selected New York because it is the most important fresh-milk market, and we selected Milwaukee because a very considerable quantity of the milk in Mil-

waukee goes into the milk product, cheese and to some extent, condensed milk. I will first describe the chart referring to New York. This is the average price in 1923 that the consumer paid; he paid almost 15 cents a quart. You can see, if you follow with your eye across this chart, that the retail price changed relatively very little. During the depression it went down 25 percent, to about 11 cents a quart, and in 1938 it was about 13 cents a quart. This gives you a picture of the rigidity of the retail price of a quart of fresh milk in New York.

The bottom price is the price which the farmer actually received for the fluid content of the quart. For example, in 1923 he got, roughly, 5 cents per quart.

The CHAIRMAN. When you refer to the bottom price, you are referring to the price which is represented on the chart by the line of dashes in each instance?

Mr. SIMPSON. The line of dashes, the net price, is the blended price; that is the price which the farmer actually receives on all of the milk. It is not the class 1 price or the price of the milk that theoretically goes into the bottle. It is exactly the same milk; but because of the surplus the actual receipt in 1923 was 5 cents, as compared with 6.4, which is the class 1 price.

The CHAIRMAN. And the price, I observe, dropped in 1932 to something below 3 cents.

Mr. SIMPSON. It dropped to about 2.6.

The CHAIRMAN. In other words, did the farmer's price drop from 1923 to 1932 approximately 50 percent?

Mr. SIMPSON. About a half, whereas the retail price declined about 20 percent. It will, of course, be urged that there were other costs which might maintain the retail price of milk and that the rigidity of these other costs would keep up—would be some justification for a higher retail price of milk. As a matter of fact, without going into all the accounting refinements involved in the distribution of the cost of milk, between milk and milk products, the single most important item of cost is the fluid content of the bottle—that is, the price of the milk. It is to the distributor's interest, obviously, to keep the class I price as high as possible, relative to the net price or the actual price which he pays the farmer, because if his class 1 price is kept high he has a justification for a high retail price; he can point to the expensiveness of milk in bottles. Furthermore, if he converts a great deal of this milk into other products, he can lower the net price which he actually pays the farmer.

The CHAIRMAN. Well, isn't it a matter of fact that if milk were delivered in cans, as it was 25 or 30 or 50 years ago, it probably could be delivered at a lower price than if delivered in bottles?

Mr. SIMPSON. Yes; and I think Dr. Howe has a good deal of other evidence on the costs of distribution, wholesale and retail. However, what is interesting to me about this chart is this divergence between these dotted and dashed lines, the thing Commissioner Davis referred to; I call this the farmer's mirage, the difference between the net price which he received and the class 1 price which he hoped to receive. It may be a coincidence, but at the end of 1923 the National Dairy entered the milk business and took over Sheffield in New York in 1925 and Borden's started its policy of expansion in 1927.

The CHAIRMAN. What is National Dairy?

Mr. SIMPSON. National Dairy Products Corporation is a corporation which owns a great many distributing companies, milk distributing companies; it holds Kraft-Phenix Cheese, the largest cheese manufacturer; it owns butter and creamery plants, it operates factories which manufacture all types of milk products.¹

The CHAIRMAN. Is it a holding company or an operating company?

Mr. SIMPSON. It is a holding company, as I understand it.

The CHAIRMAN. Over what area does it operate?

Mr. SIMPSON. It has a Nation-wide operation. It operates in Wisconsin in the cheese industry, in New York in the fluid-milk industry, and in many other cities as we indicated on charts this morning.

The CHAIRMAN. Do you happen to know where it received its authority to engage in interstate commerce?

Mr. SIMPSON. Senator O'Mahoney, I haven't even been sworn in. I think that you had better ask Dr. Howe about these things. I think he knows much more about them than I do.

The CHAIRMAN. Dr. Howe, do you know?

Dr. HOWE. A Delaware corporation, sir. All of them are, as a matter of fact, either New Jersey or Delaware corporations, with one exception, which is a Maryland corporation.

Mr. SIMPSON. I haven't tried to evade your question. I feel that is a part of Dr. Howe's testimony. I am here merely to explain a complicated logarithmic chart.

The CHAIRMAN. I was merely trying to point out, because it seemed to me a very strategic point in the record, that this testimony is telling us of a national industry which apparently has some effect upon the price which is paid by all the people of the Nation for milk and that this agency is created by the State of Delaware, which has no authority under our constitutional laws to do anything for the benefit of the consumer. Delaware can do nothing about this except to create the agency which makes the prices.

Mr. SIMPSON. Yes, Senator; and I think as I finish this there will be some other ideas which fit in with your thesis.

Now, I might point out that these two lines (the dotted and the dashed) begin to diverge during the depression. During the depression the class I price was held relatively high, but the price which the farmer received sank far below the class I price, and this divergence has remained even since the depression. It is wider now than it was back in 1923. This serves the distributor-processor in a number of ways. As I indicated, it enables him to justify a high price for retail milk; it enables him to say that he does not make very much money on the distribution of fluid milk. But this class system of buying raw milk does another thing. It enables the distributor-processor to lower the cost of the milk that goes into the milk products; it enables him to show a low cost on those things which he is interested in expanding, in encouraging, because he has a brand monopoly in such products as cheese and canned milk.

The Milwaukee chart shows much the same thing and I think it is worth looking at. This is Chart IV, Price of Fresh Milk in Milwaukee on Quart Basis.

¹ For testimony by witnesses from National Dairy Products Corporation, see p. 3027 et seq., *infra*.

Mr. BALLINGER. We offer that for the record.

The CHAIRMAN. It may be received.

(The chart with accompanying data was marked "Exhibit No. 365" and are included in the appendix on pp. 3132-3133.)

Mr. SIMPSON. Here again we have the price which the consumer pays. Here we have the class I price which I have termed the price which the farmer is led to believe he will get, or I might perhaps paraphrase, the price the farmer hopes to get, and here we have the net price, the price which the farmer actually does get.

The National Dairy Products Corporation entered Milwaukee by the acquisition of distributing companies in 1926 and 1927; Borden bought a distributor in 1928, and the National Dairy Products Corporation acquired the Kraft-Phenix Cheese Co. in 1930. Now you note we have only a part of the year 1925, but back there the farmer received for those months, the last 3 months, 5.3 cents.

Mr. FERGUSON. Mr. Simpson, just a moment. In explaining this chart you are going somewhat into facts, so in order to comply with the rules of the committee, we think you should be sworn.

The CHAIRMAN. Do you solemnly swear that the testimony that you have given and are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

Mr. SIMPSON. Is and will be the truth; I do.

There is a very narrow divergence here between the price which the farmer was led to believe he would get and the price which he did get, but you see that later this difference becomes wide, and remains wide. You see, here, another interesting fact about Milwaukee: back in this period the retail price was about 10 cents; today it is 12 cents, actually higher, a higher retail price paid by the consumer, whereas the price which the farmer received back there was about 5 cents, 5½ cents, and today it is 4.3 cents.

As Dr. Howe said, a cent difference seems a relatively small amount, until it is multiplied by many millions or billions of quarts of milk.

The CHAIRMAN. It would appear, Mr. Simpson, from an examination of these charts, actually, except for the period of the depression, that the farmer, apparently, both in New York and in Milwaukee, has received—no; I was going to say has received about one-half of the price, but that is not true, because apparently as you have prepared your chart¹ a longer space is allowed at the bottom of your chart for differences of a cent than is allowed at the top of the chart.

Mr. SIMPSON. This is a ratio chart. If the farmer has been getting 4 cents and he loses a cent, he loses a quarter of his income; whereas, if he has been getting 10 cents and he loses a cent, he is losing only a tenth of his income. In order to bring out that ratio difference, we use these ratio charts. I hope they are not confusing, because I think they are fairer and they give your eye a better picture than an actual arithmetic graph would give you.

There is one other fact that I think is rather important that these charts bring out. These low net prices relative to the class 1 price of late years must be interpreted in connection with the fact that the great distributor-processors have been expanding their production of cheese and canned milk particularly. During this period the consumption of fresh fluid milk has increased very little.

¹ "Exhibit No. 365," appendix, p. 3132.

When big business enters an industry it very often increases production, lowers price, and gives quality—not invariably, but very often it does that. In this industry, since the advent of big business the most important product, fresh milk, fluid milk, has been selling at roughly the same price. Consumption has not been stimulated, not encouraged, whereas, for the other products, in which the big companies are more interested, cheese and canned milk production increased, more particularly in processed cheese and canned milk.

Now, I am not going here, into the merits of these various products, but I think that everybody admits that the one thing we would like to see cheaper would be fresh milk in bottles. This base surplus plan apparently tends to maintain the retail price of fluid milk and gives the distributor-processor the justification for a lower cost of the processed products and a justification for expanding the production and consumption of those processed products.

The CHAIRMAN. Milk is a commodity which is produced in almost every section of the country. It cannot be said, therefore, that there is any particular center of milk production. Isn't that correct?

Mr. SIMPSON. There are different centers for different uses, but milk is produced in all parts of the country, more particularly in the northern dairy States, however.

The CHAIRMAN. Yes.

Can it be said, in your opinion, that the advent of big business, to use your phrase, in other words the national corporations, to the field of distributing milk, has, of itself, brought any benefit to the consumer?

Mr. SIMPSON. In fresh milk?

The CHAIRMAN. Yes.

Mr. SIMPSON. As I understand it, it has done very little. The health authorities and the State sanitary regulations have improved the quality of milk, and you may have certain special grades which have an appeal to certain groups, perhaps health fanatics or very wealthy people; but by and large it seems to me that in this industry the only contribution which the great companies have given is more processed cheese and more canned milk. They haven't given us any more fresh milk, fluid milk, and they haven't given it to us at a lower price. Is that an answer to your question?

The CHAIRMAN. Yes; it tends to answer it.

In your opinion does the national corporation engaged in this distribution give the consumer a better quality than could be afforded to him by the local distributor?

Mr. SIMPSON. Senator O'Mahoney, I have not studied the fluid-milk business so thoroughly as I have studied the milk-products industry. I first studied the milk-products industry for one of the first Federal Trade Commission reports many years ago, and I worked on butter, cheese, and milk and cream for the Tariff Commission.

The CHAIRMAN. The layman readily understands why the consumer should turn to Detroit, let us say, for an automobile, or turn to Pittsburgh for steel products, or turn to some other manufacturing center, let us say, for a radio, because those are commodities which are produced in particular centers by reason of the concentration of industry. But now we are dealing with an agricultural product which, like every other agricultural product, by and large, is produced generally speaking throughout the country.

Mr. SIMPSON. Decentralized.

The CHAIRMAN. There you have a decentralized production of agricultural products as compared with a centralized production of industrial products. Now, the question that I am interested in developing is, To what extent the appearance of the national corporation which controls the distribution of an agricultural product is justified as compared with a national corporation which controls the distribution of products which are centrally produced?

Mr. SIMPSON. Well, Senator, these investigations of the Trade Commission and of the Tariff Commission, and further inquiries in the Department of Agriculture, convince me that this is a small-scale industry; that the best butter can be made in factories near the raw material supply; that the best butter can be made in creameries where cream can be brought in fresh at frequent intervals; that the best canned milk must be manufactured near where the farmer produces it. Cheese factories are notably small factories. In the processing of cheese there are some large-scale operations, but this is a small-scale industry, and there is no particular efficiency or advantage, in my opinion, in the advent of big business. Does that answer your question?

The CHAIRMAN. Yes; it tends to. I don't want to be conclusive about it because of course we haven't heard the other side, and I am always willing to listen to both sides in any argument, but you do present quite clearly this comparison between production in a decentralized industry and production in a centralized industry, and what you are saying tends to indicate that where the production of a commodity is decentralized, the appearance of a centralized or national distributing corporation tends not to produce a low price for the consumer, but rather to maintain the price, a high price, which is reflected only in benefits to the distributing corporation and that there is no great social value in that development.

Mr. SIMPSON. Senator, I think that is right, but I think there is only one qualification. They have reduced the prices and they have increased the production of certain milk products—from my point of view, speaking as a consumer, the less desirable milk products; that is, canned milk and processed cheese—less desirable than fresh fluid milk. Those are things that they produce under their brand names where they have what I might call a brand monopoly, but what you said is certainly true of fluid milk, in my opinion. They haven't reduced the price of fresh milk, nor have they increased the production.

The CHAIRMAN. Are there, in your opinion, any identifiable benefits which are derived from this national distribution system?

Mr. SIMPSON. No; I agree with you—

The CHAIRMAN (interposing). Don't say you are agreeing with me because I am not testifying. I am not making any statement; I am merely asking questions.

Mr. SIMPSON. I am agreeing with the tone of your voice as I interpret it.

The CHAIRMAN. I am glad the tone of my voice will not be reflected in the record tomorrow.

Mr. SIMPSON. I have arranged for that, Senator. But it seems to me that the job that they have done has been more particularly in

processed cheese and in canned milk, and that they haven't done the usual job expected of large, efficient corporations in fresh milk.

Mr. DAVIS. Mr. Simpson, with respect to the prices you pay for the grade classifications of milk which go into these processed products like cheese, canned milk, dried milk, and so forth, are you aware that the president of one of the largest dairy distributors¹ in his 1937 report to his directors stated that the corporation had made more on the processed products than they had on the sale of bottled milk?

Mr. SIMPSON. Yes sir. Moreover the investment bankers and brokers who recommended National Dairy and Borden's stock—we have one reference with us—point to the fact that they have a very profitable business in the milk products and that they are less interested in fluid milk. But I think in that connection, Mr. Davis, it must be kept in mind that their system of accounting, although it may be legal and accurate and there may be some justification for it, is not in my opinion—and I have studied accounting for many years—logical. They say that this is their price.

The CHAIRMAN. Please identify it for the record.

Mr. SIMPSON. In this chart, for example (referring to "Exhibit No. 365") the distributor takes his class 1 price as his cost of milk in the bottle. The real cost of his bottle is the net price, but this high class 1 price enables him to show a smaller margin on milk, and this base surplus plan enables him to support the contention that the milk used in milk products is lower in cost.

The CHAIRMAN. Wouldn't it be more accurate to say that the accounting cost to the distributor would rather be an average of these two prices, than one or the other?

Mr. SIMPSON. Without going into the refinements of accounting, if a homogeneous raw material is used for a number of different products it has in every department, the same cost. The average price is the cost of the raw material. What they are doing is keeping down the cost of milk products at the expense of fluid fresh milk and are using as justification this class-plan system of buying.

The CHAIRMAN. In other words, if I understand you correctly, your contention is that the accounting practice is to represent the cost of milk to be that which is paid to the farmer for class 1 milk, though he doesn't receive that price on all the milk that he sells to the distributor.

Mr. SIMPSON. That is right.

Dr. THORP. Mr. Chairman, may I ask a question about the chart? I am struggling a little bit to get hold of this chart. Am I correct in my interpretation that if there is a reduction on the chart in the amount that goes to the farmer and the distributor's share remains constant, the bar, the section of the bar which goes to the distributor, will actually become longer?

Mr. SIMPSON. You mean if retail prices are maintained?

Dr. THORP. At 5 cents and 15 cents you have a certain length bar at the top which goes from the distributor, from 5 to 15.

Mr. SIMPSON. You mean this bar, or if the retail price remains constant?

¹ Report of the president of National Dairy Products Corporation to the directors for year 1937, published March 1938.

Dr. THORP. If the number of cents going to the distributor remains constant.

The CHAIRMAN. To the distributor?

Dr. THORP. Yes. Let me illustrate it this way. Suppose that 5 cents was the farmer's share in one of those early years, and 10 cents was added to that by the distributor, the total price was 15 cents. You have your bar divided then approximately as it is divided there.

The CHAIRMAN. Fifteen cents then in that case that you now describe, Dr. Thorp, would be the price to the consumer and not the price to the distributor.

Dr. THORP. That is right. The distributor gets 10 cents out of the 15.

Mr. SIMPSON. Yes; that is right, the distributor gets 10 cents.

Dr. THORP. Suppose the farmer's share is brought to 3 cents. The distributor is still getting 10 cents. The price to the consumer then is 13 cents. Isn't it correct that the bar for the distributor's share would actually be longer on the chart? That is from 3 to 13 is longer than from 5 to 15.

The CHAIRMAN. If it is a ratio chart that would be correct.

Mr. SIMPSON. You say if the farmer's price drops and the retail price is maintained.

Dr. THORP. The retail price is maintained as a constant increased amount above the farmer's price; the distributor's share is constant.

Mr. SIMPSON. The distributor gets 10 cents and the farmer's price drops. Now what is your question?

Dr. THORP. My question is whether in this type of chart it wouldn't appear as though the distributor was getting more because it is a ratio chart, and your distance from 3 to 13 is much longer on the chart than from 5 to 15.

The CHAIRMAN. In the case that you state, if I may interrupt the witness, that is exactly what would happen. You are posing a stationary price for the consumer, namely, 13 cents.

Dr. THORP. No, the consumer's price would drop from 15 to 13. There would be a stationary return to the distributor.

Mr. SIMPSON. Of course, the point is that if the retail price drops, if the consumer pays less and the distributor continues to get a 10 cents margin, he does get a relatively larger part of the total 13 cents. That is what we should show, that is right.

Dr. THORP. That is right. I am merely trying to see what I can read from this chart.

Mr. SIMPSON. The reason I put it on a ratio basis is this: If the retail price of 15 cents drops 3 cents, the consumer has a saving of 20 percent. From his point of view he has a saving of 20 percent on every quart of milk. If the farmer's price drops from 5 cents by the same number of cents, to 2 cents, the farmer's loss is relatively greater because the initial magnitude that we start with for the farmer is a lower number of cents, and in terms of his income, his income is reduced by 60 percent during the same period that the consumer is saving 20 percent.

I think it is a perfectly honest method of presenting these figures. We can show it in other ways but it seemed to me this brought it out.

Dr. THORP. I am not quarreling with it as being dishonest; I was thinking of it in terms of what could be read into it.

Mr. SIMPSON. We statisticians sometimes put up things to suit our purposes, but I think this is perfectly honest.

The CHAIRMAN. My questions with respect to the chart were in the interest of the reader who is not a statistician, who would sometimes find it difficult to understand the methods of the statistician.

Mr. SIMPSON. I hope this isn't too complicated.

Mr. HINRICHs. Mr. Chairman, might I request that the basic figures themselves be introduced into the record, because precisely that elongation of the bar has taken place in the chart, and in this type of presentation if we are actually going to get lower prices for consumers, which we are all interested in, we need to lean over backwards in not stretching the case.

Mr. SIMPSON. Mr. Hinrichs, I have marked these figures in pencil so I could see them. You can't, but I have them in here in a rough draft. We will have them copied and sent over.¹

The Chairman. Could you attach them in a memorandum to appear in connection with your charts?

Mr. SIMPSON. Do you want them right away? I can give you the rough figures. I just didn't have them typed.¹

The CHAIRMAN. My concern now is merely to have this material in such shape that it will appear in the record at the same time that your testimony appears, and in connection with the charts.

Mr. SIMPSON. I will submit this rough table. Is that all right?

The CHAIRMAN. Perhaps you might be able to give us a narrative explanation now if you have those figures.

Mr. SIMPSON. The figures are the figures represented on this chart. They are the same figures, the figures from which this chart was drawn. That is what you meant, just the figures?

Mr. HINRICHs. Yes. For example, though it is extremely difficult to read the figures from the chart without grid lines, it seems to me on your chart with reference to Milwaukee, the margin in cents per quart in 1926 and 1932 are almost the same.

Mr. SIMPSON. Just a minute; you mean what I call the farmer's mirage?

Mr. HINRICHs. No; the distributor's margin over the class 1 price for milk.

Mr. SIMPSON. You mean the difference between the class 1 price and the retail price, this bar.

Mr. HINRICHs. That is correct.

Mr. SIMPSON. In 1926?

Mr. HINRICHs. In 1926.

Mr. SIMPSON. It is 4.7. In 1932 it is 4.3 mills.

Mr. HINRICHs. So the number of cents has declined while the bar is slightly longer in 1932. The share of the distributor was larger in 1932, which is what is shown in your chart.

Mr. SIMPSON. No; it is a little bit larger in 1926—4.7 in 1926 as compared with 4.3 in 1932, but we are on a lower price level, and therefore the distributor's difference should be made relatively greater, because we are on a lower level of income and of wages and of prices. It is about the same in cents.

¹ Later supplied by Mr. Simpson; printed as accompanying data with "Exhibits Nos. 364 and 365," appendix, pp. 3131 and 3133.

Mr. HINRICHS. No one is better aware than I am of the desirability of getting the price down. If you consider the fact that a wage-earner family of a man and wife and two children has to be fed on roughly \$1 a day, or \$1.25, which is on a high level, the difference of 6-cent milk and 12-cent milk stands out as a very prominent feature in the economy of that family.

Mr. SIMPSON. I might give one other explanation, to give a complete picture of these charts. These are average prices through the year. For the net price, the price received each month is weighted by the production in the area, and the same thing for the class 1 price. This bar is a weighted price for the year.

The CHAIRMAN. Did I understand you to say that the price in 1926 to the distributor was 4.7?

Mr. SIMPSON. No; I said that the mark up which the distributor got over the class 1 price—that is what I thought Mr. Hinrichs asked for—was 4.7.

The CHAIRMAN. And in 1932, 4.2?

Mr. SIMPSON. Four point two.

The CHAIRMAN. Is it not a fact that 4.2 in 1932 is a larger percentage of the entire column which is about 9 cents than 4.7 is of the entire column for 1926 which is about 11 cents?

Mr. SIMPSON. It is, and it should be, because with a lower level of income and lower wages—

The CHAIRMAN. That is the significant fact.

Mr. SIMPSON. That is why I showed it on a ratio basis.

Mr. HINRICHS. Mr. Chairman, might I ask one or two other questions about this? You speak of the price that the farmer gets. Do these studies refer back to some printed report that ought to be introduced for reference?

Mr. SIMPSON. We didn't have time to put all the references on these charts because we got them up hurriedly. The Department of Agriculture has mimeographed releases in which they give the class 1 price and the net price and we have taken these monthly prices and weighted them by the production in those areas.

Mr. HINRICHS. When you say the price the farmer receives, that is delivered at the city terminal; it certainly isn't the farmer's price on the farm, is it?

Mr. SIMPSON. No. It is quite a long story and I will just give you the outlines of it. For New York they have roughly a 200-mile zone—200- to 210-mile zone—and the milk is delivered to condensaries in the zone, or to cheesemakers or to the fluid-milk market. The net price is the price which the Department of Agriculture reports as an average of the Dairymen's League and the Sheffield Producers' net price.

Mr. DAVIS. Mr. Simpson, do you have the figures showing the different grade prices at the different cities for which you give the class 1 price in this table?

Mr. SIMPSON. Mr. Davis, I may have those in the same release, but all I used for the purpose of this chart was the class 1 price, which refers to the bottled milk, and the net price or the average blended price. I am not sure whether the same releases can give you all the class prices.

Mr. DAVIS. I understand that, but I would like the committee to have the exact figures insofar as you can furnish them, in prices

which they were receiving during the period involved, for the different grades of milk.

Mr. SIMPSON. I am sure we can get some figures.¹ Whether we can get the various class prices for all those that make up these net prices which the Department of Agriculture reports, I can't say, but I will try to get them.

Mr. DAVIS. I can understand the difficulty of obtaining that, in New York, for instance, where I believe they have nine grades, but in most of the areas they have only two or three grades; do they not?

Mr. SIMPSON. I think we can get some price variations for the various grades, but all I have shown here is an average of all the grades together.

Mr. DAVIS. I understood that.

Dr. HOWE. Mr. Chairman, just continuing this a moment, may I ask to refer to the Milwaukee sheets which you have there?

The CHAIRMAN. You mean the chart?

Dr. HOWE. It is in your exhibits there; it isn't the chart.

The CHAIRMAN. You mean the Farm Price Decline of the Milwaukee Milk Survey? ²

BASE SURPLUS PRICE PLAN

Dr. HOWE. I think that is it. What I want to emphasize again is something that Mr. Simpson spoke about at the beginning. We have been searching for an explanation of the base surplus plan which Commissioner Davis spoke about a minute ago. This is the first time that I have ever known of its being dug out and dramatized in this way, and I think it is as valuable a thing as has been contributed.

What I want to draw attention to is back there in 1925 before the big business entered, the business we have over here, the net price and the class price are very close together. In other words, big business had not been able to introduce or had not introduced the wide divergence between the surplus milk price and the fluid milk price. Apparently then it began to develop all over the country. As these two companies got into Milwaukee the spread got wider and wider. Apparently over here they sold milk for butter and milk for fluid milk pretty much at the same price.

Now, if you will refer to the importance of a penny, you will find a penny or a halfpenny runs into colossal figures when it is multiplied against 40,000,000,000 quarts throughout the country, and this spread here is just a wee little spread over here and this big wide spread just ran into tremendous losses to the farmers. That is very, very important, so far as the farm economy is concerned.

Here in Milwaukee the collapse in farm prices is stated in another way. At column 1 you see the price paid to the farmer in 1923, 1933, and 1934 (chart VI).² His price went down from 6.2—it went down by 2.2 cents.

Mr. BAUGHMAN. Dr. Howe, you are now talking about chart VI; ² is that correct?

Dr. HOWE. Yes.

¹ The data, supplied by Mr. Simpson at a subsequent date, is included in the appendix, p. 3281.

² "Exhibit No. 366," appendix, p. 3133.

Mr. BAUGHMAN. Which is entitled "Farm Price Decline, Milwaukee Milk Survey."

(The chart referred to was marked "Exhibit No. 366" and is included in the appendix on p. 3133.)

Dr. HOWE. That is right. The next year it rose a little bit, or the decline was not so much. But if you will notice in the last two columns there the collapse in surplus milk was very much greater than in class 1 milk. That is very important for this reason that there is twice as much milk generally used for manufactured commodities as goes into bottles, and apparently by some sort of process, whether it is Nation-wide or otherwise—and I think it is Nation-wide—the effort was made maybe to use the base surplus price or other devices so that the price for surplus milk was collapsed.

I never knew before the spread between net price and the base price was so little back there when there was free competitive conditions. This is the first time I have been able to find out the extent of that collapse. So you see, the total losses in Milwaukee alone in 1933 amounted to \$3,000,000 in that city and in 1934 to \$2,999,000, yet that same technique which was shown in New York, if country-wide, multiply.

The CHAIRMAN. Comparing these columns, 1925 to 1938, it would appear that the class-1 price, which in 1925 was approximately 5½ cents, was increased in 1938 to about 6 cents.

Mr. SIMPSON. Five point eight.

The CHAIRMAN. Of course, I was merely estimating.

Whereas, the net price which was apparently—

Mr. SIMPSON (interposing). Five point three.

The CHAIRMAN. In 1925.

Mr. SIMPSON. Dropped to 4.3 in 1938.

Dr. HOWE. And in 1932 and 1933 it was down to about 3 cents, so that same thing is proved by this chart—

The CHAIRMAN (interposing). Do you have any figures to indicate, Mr. Simpson, what proportion of the total quantity was sold in each of these years at these different prices?

Mr. SIMPSON. Well, we have for Wisconsin the fluid—we have a bulletin from the State of Wisconsin which gives figures on the fluid milk, fresh milk, cheese and butter, and I think they are reduced to a fluid-milk basis.

Dr. HOWE. It is right here on the "Farm Price Decline; Milwaukee Milk Survey," 166,000,000 pounds went into class 1 milk and 158,000,000 pounds into class 2 milk.

Mr. HINRICHS. Mr. Chairman, I have one further question here. Some emphasis has been placed on the fact that in 1925 there was relatively little spread between the class 1 price and the net price. Reading from the chart,¹ it appears to be substantially less than a quarter of a cent. The class 2 price is not shown on the chart. It must be lower than the average. I suppose the difference between the class 1 and class 2 price might be twice as much as the difference shown on the chart between the class 1 price and the net price. In other words in 1925 it would have been less than half a cent. The witnesses emphasized the growth from 1925 onward of the spread between the class 1 price and the net price. Now, however, it appears

¹ "Exhibit No. 365," appendix, p. 3132.

from chart VI that in 1923 there was a difference of 1.8 cents per quart in Milwaukee between the class 1 and class 2 price.

Mr. SIMPSON. Milwaukee, 1923? Were you talking about Milwaukee or New York?

Mr. HINRICH. Milwaukee, table VI, chart VI, whatever you call it.

Mr. SIMPSON. 1925?

Mr. HINRICH. In your chart of Milwaukee, prices for 1925, the difference between the class 2 price and the net price is how much?

Mr. SIMPSON. One mill per quart.

Mr. HINRICH. You treated the development of that from 1925 to 1930 when it was how many mills?

Mr. SIMPSON. One cent and four mills.

Mr. HINRICH. One cent and four mills in 1930. In 1932 it was how much?

Mr. SIMPSON. In 1932 it was about 1 cent and 2 mills.

Mr. HINRICH. That net price is not the class 2 price of milk. That is the average of all prices?

Mr. SIMPSON. That is the average of all the classes.

Mr. HINRICH. Would it be correct to assume that the difference between the class 1 price and the class 2 price is about twice as much?

Mr. SIMPSON. I couldn't say.

The CHAIRMAN. What is the figure for 1938?

Mr. SIMPSON. In answer to Mr. Hinrich's question, I can't tell you without going to the figures, and I don't know whether we can find the figures on the relation between the class 2 and the class 1. I think all the Department of Agriculture gives us, and they receive this from the producers' associations in certain areas, is the class 1 price and the net price. We might be able to find the gradations in prices for certain periods, certain limited periods, but not for this whole series.

Mr. HINRICH. The national figures on consumption of those two class prices would indicate that you multiplied by two or three or even by four—the last would be unreasonable—but the point that I made now was that you started in the discussion of that 1925 margin as though it was a historical beginning point. I presume that it was the beginning of this series of figures.

Mr. SIMPSON. It was the beginning of this series of figures.

Mr. HINRICH. But from some other source Dr. Howe has introduced table VI in this mimeographed sheet, which is labeled page 9 and headed "The farm price decline, Milwaukee milk survey."

Mr. SIMPSON. That is right.

Mr. HINRICH. Which shows 1923 class 1 price at 6.2 cents per quart, and in the next column the price for the class 2 milk of 4.4 cents, which is a 1.8-cent spread.

Mr. SIMPSON. That is right.

Mr. HINRICH. The spread in 1923, for whatever reason, was greater than the spread of 1925 could conceivably have been and was no greater than the spread which developed in the next year or so.¹

Mr. SIMPSON. That is right, Mr. Hinrichs; you are perfectly right. First of all, this came from the Milwaukee survey, and this is a series

¹ Dr. Howe subsequently informed the committee that: "Later analysis of 'A Survey of Milk Marketing in Milwaukee,' issued in May 1937 by the U. S. Department of Agriculture indicated that the spreads between the fluid, or class 1, and net, or average, prices in 1923, 1924, and 1925 were 4, 8, and 5 mills, respectively."

we got from the Department of Agriculture, and the earliest I could get for a comparable series was for the last 3 months of that year. I don't leave these out because they didn't prove the point.

Mr. HINRICHS. It is obvious you didn't complete the bar, which indicates your figures begin in the latter part of 1925. I wouldn't for the world have implied anything else.

The CHAIRMAN. What was the spread for 1938?

Mr. SIMPSON. In 1938 the spread was 1½ cents.

Dr. HOWE. Now, Mr. Chairman, we were to discuss this in a later section, but I think we can close that whole section up by just adding to the discussion this exhibit entitled, "Nation-Wide Collapse of Dairy Farmers' Income In Percentages of the Consumer's Dollar."

We will begin in 1923, the year of the organization of the National Dairy Products Corporation and the beginning of the organization and growth of Borden's and the other three corporations.

In the year when the industrialization of this industry began, the consumers of the country paid \$4.29 for a combination of various dairy products. Out of this sum the farmers got \$2.22, while the processors and distributors took \$2.07.

This distribution of consumer costs can be stated in another way. The farmer got 52 cents of the consumer's dollar, while the processor and distributor got 48 cents. In other words, it cost not quite 50 cents to distribute 50 cents worth of dairy products.

From this time on, however, even during the period of prosperity down to 1929, the farmer's share remained either constant or rapidly declined. In the years following the organization of the trust and before it had obtained a Nation-wide control, the farmer's share fell but slightly to between 48 cents and 49 cents of the consumer's dollar.

From 1929 onward, however, it shrank rapidly. Thus, by 1930, before the collapse had gained much headway, the farmer's share fell to 44 cents out of the consumer's dollar. A year later it fell to 40 cents. By 1932 it had fallen still further to 34 cents. In 1933 it crept up to 35 cents.

During these years when the farmer's share was falling, the processor's and distributor's share was increasing. It crept up from 48 cents in 1923 to 51 cents and 52 cents between 1924 and 1929. By 1930 it had risen to 56 cents. By 1931 it had increased still further to 60 cents. In 1932 it had risen to 66 cents, while in 1933 it was 65 cents.¹

Under normal conditions any collapse in price due to depression conditions would have been shared by the distributor and the farmer. It would have been reflected in the consumer's price as well as in the farmer's income. Instead, however, the share of the processor

¹ Nation-wide collapse of dairy farmers' income in percentages of consumer's dollar:

| Year | Farmer's share | Distributor's share |
|--------------------|----------------------|---------------------|
| 1923 | 52 cents..... | 48 cents. |
| 1924 to 1929 | 48 and 49 cents..... | 51 and 52 cents. |
| 1930 | 44 cents..... | 56 cents. |
| 1931 | 40 cents..... | 60 cents. |
| 1932 | 34 cents..... | 66 cents. |
| 1933 | 35 cents..... | 65 cents. |

either remained stationary or mounted during these years, while the total cost of the depression was taken from the farmer.

Now it is difficult to convert these changing prices into farm totals. Yet, measured by these indices the farmer's income share of the consumer's dollar had fallen by 33 percent, while the distributor's share had increased by 40 percent.

The collapse of the income of the dairy farmer is confirmed by a survey made in the city of Milwaukee (1934 to 1935). This survey covers the period following the entrance of representatives of the milk trust into the city of Milwaukee as it coincides with the organization of a farmer's marketing association.

The Milwaukee survey confirms the general findings as to the country as a whole. In 1923 the Wisconsin farmer was paid what was almost equivalent to a uniform price for all of his milk. He received \$2.84 per hundred pounds for class 1 milk and \$2.03 for class 2 milk. That is equivalent to over 6 cents a quart for class 1 milk and nearly 4½ cents a quart for surplus milk. It is doubtful that any farmers are receiving as high a price as this today after years of struggle on the part of the Federal Government to protect the dairy farmer and to increase his share of the consumer's dollar.

A significant thing about this classification is that the price for surplus milk, which comprises two-thirds of the commercial milk sold, was relatively little below the price for class 1 milk. It is this price that is most important to all those farmers outside of the city milk sheds who are compelled to produce for manufacturing purposes. Now, from 1923 to 1929 the country enjoyed widespread prosperity. Yet, except for the years 1927 to 1930, milk prices to the farmer under the control of the milk distributors went continuously downward. After 1930 the collapse was rapid.

From 1931 to 1933 in Milwaukee the price of class 1 milk slumped.

A collapse in the price of surplus milk carried it from \$2.03 a hundred in 1923 to 99 cents a hundred in 1934. Let us approach this in another way. In 1933 the farmer's share of the consumer's dollar at Milwaukee was 58.1 cents. In 1934 it had fallen to 42.8 cents. Stated in terms of quarts we find the same decline. In 1923 the farmer got 6.1 cents per quart for class 1 milk, while in 1934 he got but 4.4 cents a quart.

While this loss was being suffered by the farmer, the share taken by the distributor increased from 4.4 cents a quart in 1933 to 5 cents a quart in 1934.

Now, let us reduce this to a monetary loss. In 1934 the people of Milwaukee were consuming 83,000,000 quarts of milk. Taking this as a basis, the farmer suffered a decline in his milk income in the year 1933, measured by the slump from 1923 prices, of \$1,661,000. This loss, however, was only on class 1 milk which went into bottles.

The loss on class 2, or surplus milk, was even greater. It amounted in 1932 to \$1,812,600.

Thus, the total loss to the farmer from collapse in price for both classes of milk amounted to \$3,473,600 in 1933. The total loss from both classes of milk amounted to \$2,999,010 in 1934.

This, it is to be remembered, was for a city of 500,000 population. If a similar collapse in dairy income occurred in other cities, the total loss as to the farmers might have amounted to several hundred million dollars.

Assuming an average loss of \$2,500,000 a year for 12 years, the loss for the city of Milwaukee alone might have exceeded \$25,000,000.¹

(The chart referred to was marked "Exhibit No. 367" and is included in the appendix on p. 3133.)

Dr. HOWE. That is another approach to it.

This consumer's dollar related to a composite consumption of various dairy products, fluid milk, butter, cheese, and various other things. I think in that chart you have a picture of not only the condition of the dairy farm, but something that has happened to dairy products pretty generally.

Dr. HOWE. Just see the extent to which the farmer's share in the dollar sank from 1923 to 1933, 10 years' time. He got 52 cents in 1923 and 34 cents in 1932 and 35 cents in 1933. While the farmer's share was going down the distributor's share went up from 48 cents to 65 cents.

The CHAIRMAN. What explanation is given for that great difference?

Dr. HOWE. Well, we have seen that the distributor maintained the price of fluid milk roughly without much disturbance. It went down about 20 percent for 1 or 2 years. I suppose the explanation which would be offered was that this was a depression period, and therefore the farmer had to suffer from it. But, as a matter of fact, the distributor kept his fluid milk price up pretty well, and it may be that the price of manufactured products remained the same, but I am not sure of that.

Representative WILLIAMS. From your studies of it, what would you say as to the just proportionate part that the farmer should have, based upon the investment, capital investment, income, the labor—what share should the farmer have out of the entire price to the consumer as compared to the distributor?

Dr. HOWE. If you will help me a little bit, sir, I think we can get a rough approximation. What would you say was the value of a dairy farm of 15 cows? How many acres of land would it be?

Representative WILLIAMS. Of course, I can't answer that myself, because I don't know. I am asking you, with more experience.

Dr. HOWE. Roughly, 15 cows and 40 or 50 acres of land and a house and dairy shop might be worth 7 or 8 thousand dollars—a dairy farm of 15 cows.

Representative WILLIAMS. What acreage?

Dr. HOWE. Fifty or sixty acres.

Representative WILLIAMS. It would naturally depend on where it was located. I would think so; yes.

Dr. HOWE. Let's give him 5 percent on \$8,000; that is \$400. The feeding of 15 cows costs something, their care and maintenance costs something; labor is worth something. Would the labor cost, feed costs, and all of the cost of 15 cows amount to \$800 a year?

The CHAIRMAN. If I may interrupt you, Doctor, I would say that you probably couldn't give a general answer, based upon any specific case of that kind, because the value of a dairy farm will vary according to the location. I think the question which Congressman Williams has in mind, and the one which I have in mind, is, speak-

¹ Additional data in connection with this testimony are included in the appendix on p. 3282.

ing generally, from your studies as they apply to the whole country, what justification is there for the growing proportion of the consumer's dollar which apparently goes to the distributor rather than to the farmer.

Dr. HOWE. As to milk?

The CHAIRMAN. Yes.

Dr. HOWE. Well, I will make two concrete statements now, concrete evidences are probably better than hypothetical ones. As I stated this morning, I studied milk to some extent in four or five countries in Europe. One of the outstanding cities of 500,000 showed that the farmer got 4 cents out of 6 cents; 1 cent went to the plant, 1 cent went to the counter charge where it was distributed. The farmer got two-thirds of the consumer's dollar in this country.

Mr. Johnson, who will go on the stand tomorrow—and who is a practical dairyman—is paying the farmers outside of Detroit about $3\frac{1}{3}$ cents a quart. He is taking about a cent himself for his plant, and something over one cent for his counter charges, and is selling milk at 6, 7, and 8 cents a quart, so that he is maintaining about the same ratio that I found in European cities, about 60 percent to the farmer and 40 percent between his plant cost and his shop costs.

Representative WILLIAMS. Are there any figures available anywhere showing approximately the investment in the dairy business from the farmers' standpoint on the one hand and the distributors' standpoint on the other?

Dr. HOWE. If there are between 3,000,000 and 4,000,000 dairy farmers who produce some milk, and if the average value of a farm is \$5,000, you would have a capital value of 5,000 times 3,000,000, whatever that is.

Mr. BALLINGER. Didn't you say earlier this morning that the value was around seven to eight billion dollars?

Dr. HOWE. I thought that was the minimum, and if the capitalization of these two major companies is taken as the share which they should have, it is \$400,000,000, I think, for those two corporations, so that you have about 5 percent, let's say, controlling the 100 percent represented by farm values. That is very rough. The ratio is something like that—a small investment in the distributors with a large investment on the part of the farmers. I could figure that out for you, sir, and get a rough approach to it.

Representative WILLIAMS. Well, I think that is a very interesting thing, to try to find out why it is, in the first place, that the farmer isn't getting his part of the entire cost price of the product, and what the relative amount of the investment, and what is a fair income to him and to the distributor.

Mr. BALLINGER. Congressman, could I interpose 1 minute? I am afraid we will get into this system of arbitrary economics—how much should a certain class be paid. Our contention is that if you free this industry from the monopolistic practices, and if it is possible to consume twice the amount of milk that is at present consumed, we feel that under competitive conditions these things will right themselves and the farmer will get a much better income.

Representative WILLIAMS. No doubt that is true. I was just wondering what the proportionate part of the investment is now compared to the farmer and the distributor.

Dr. HOWE. I would guess the farmers' investment was 20 times that of the distributors'.

Representative WILLIAMS. And the amount of labor involved in the production and in the processing and distribution?

Dr. HOWE. The man who drives a truck gets, per day, six or eight dollars, and the share of the distributor is largely in truck delivery, and in the 12 cities that we showed the distributor got more than a cent more than the farmer got for his milk, just for distributing it.

The CHAIRMAN. And this is unquestionably true from all of the charts and figures which I have seen. The farmer's proportion of the national income has steadily decreased over a long period of years ever since the close of the Great War.

Dr. HOWE. Yes, sir.

The CHAIRMAN. While at the same time the centralization of control over industry and over the distribution of agricultural products has steadily increased. In other words, the decline of the farmer's income, the farmer's share of the national income, may be relatively measured by the increase of concentration through the corporation in the distribution of his products and in the distribution of industrial products.

Dr. HOWE. There was a study made, which was printed, which I used some time ago, which showed what the food consumer paid between eighteen billions and nineteen billions; the farmer got out of that \$7,000,000,000; while there was \$12,000,000,000 in all the processes of transportation, manufacture, remanufacture, and distribution. Pretty nearly everything confirms the same story, Senator.

Representative WILLIAMS. The milk industry, then, is just about on a par with other industries.

Dr. HOWE. Mr. Simpson says it is one of the worst.¹

Mr. BERGE. You said, Dr. Howe, a few moments ago, that perhaps one of the reasons for the decline in the farmer's share or the distributor's share was the depression, and I didn't quite follow that because I could understand why the prices generally might be depressed in a depression, but I don't see why that should influence the ratio of distribution of the total price received from the consumer as between the distributor and the farmer, and I don't think your chart here bears that out, because from 1924 to 1929 during the period of the greatest prosperity the farmer's share had declined somewhat from the preceding year. I was wondering whether you could accept as at least a partial explanation the fact that under the old methods of distribution the farmer only needed to charge enough toward his milk as he distributed it locally to get a reasonable profit over and above his costs, whereas now when milk and other dairy products are distributed by large aggregations they have the power to fix prices, a monopolistic power, so that irrespective of the economic conditions generally they can hold prices up high enough to get a substantial profit. As I was thinking about the things that have been charged in these milk indictments in Chicago, if those charges are true, it would seem that the national distributors are in the position to get a substantial profit over and above what they pay, irrespective of what economic conditions are generally. So in effect, what I am trying to say is that under present methods of distribu-

¹ Mr. Simpson's testimony appears, *supra*, p. 2787 et seq.

tion you have a fixed share of the total price that the consumer pays that the distributor gets irrespective of whether the farmer gets a fair return or not. The corporations, National Dairy, Borden's, and the other large aggregations, who control the distribution of milk, have the power, have they not, to protect their own profit position, whereas the farmer hasn't, whereas in the old days the consumer who bought the milk more or less under local conditions didn't pay anything more than a reasonable profit because there was no price fixing going on as between farmers. It just seemed to me that there must be some explanation inherent in the fact that distribution by large national aggregations accounts for this difference, because the ratio changes as the power of these national aggregations has grown.

Dr. HOWE. Exactly.

Mr. BERGE. And not as a depression settles on us.

Dr. HOWE. I would say that it is the dual explanation that I would offer, that which Mr. Means made in his memorandum, showing that we have a fixation of prices as to one group of industries, while the farmer's price has been collapsing and, as you suggested, the farmer is a distress seller; the distributor is not a distress seller.

Mr. BERGE. And the fixation increases the distributor's share of the total and that is a progressive process that has been going on for the last 15 years.

Mr. BALLINGER. In other words, Dr. Howe, if they are practicing monopoly on the retail front we would expect the monopoly to increase its profits by practicing on the buying front, too; in other words, by projecting a little higher and giving the farmer a little less, the spread on profits becomes greater; the monopolist wouldn't be expected to ignore one source of profit for another, so the going down of the price to the farmer might be measured in terms of the success of the monopoly, mightn't it?

Dr. HOWE. I should think that that was a major factor, that the distributors make the most of the money out of the depressing of what they pay the farmer.

Mr. DAVIS. Right along the line of the questions asked by Mr. Berge, it appears that these milk distributors made no concession to the fact that the depression had resulted in a very large reduction of purchasing power of the public which would ordinarily have followed if the forces of supply and demand had been playing. Is that not correct?

Dr. HOWE. Yes, sir.

Mr. DAVIS. There is one thing further to which I wish to call your attention. This chart, or rather memorandum,¹ which you introduced to show what a quart of milk costs and what the farmer gets from it, gives the prices paid the farmer f. o. b. city plant for class 1 milk at various cities and the prices charged to consumers for milk delivered in bottles, and then the spread to the distributor. In view of the fact that a large percentage of the milk is processed and the farmer is paid therefor the grade 2 or subsequent grade price, so that considering the average or blended price, the spread from the price paid the producer and the price charged the consumer for a bottle of milk is even greater than it is shown here, is it not?

¹ "Exhibit No. 362" appendix, p. 3128.

Dr. HOWE. Undoubtedly it is, Mr. Davis, and the extent to which the spread is greater depends upon the extent to which the farmer doesn't get a proper deal in the marketing.

Mr. DAVIS. Yes. Aside from that—

Dr. HOWE. Aside from that it is true; yes.

Mr. DAVIS. But just assuming that he receives pay according to whether it was sold in bottles or processed, in view of the fact as stated by the president of the National Dairy Products Corporation that they made more profit on the processing than they did on the milk bottle sales, it couldn't be claimed that the purchase of that milk was a liability, could it?

Dr. HOWE. I don't think it is a liability by any means.

If I could close up one phase of what we were discussing before we diverted a little bit, I think it would finish for the day.

Mr. BAUGHMAN. Dr. Howe, on that point you have just finished that Judge Davis brought up, haven't you figures to show that all through the depression these big companies maintained a large profit return and also relatively the highest salaries in the industry?

Dr. HOWE. Correct.

Mr. BAUGHMAN. Have you those figures? Can you give us those?

Dr. HOWE. Would you like to have them at this time?

Mr. BAUGHMAN. I think it brings that point home.

(Representative Williams assumed the Chair.)

Acting Chairman WILLIAMS. If you have them I think we ought to get them.¹

Dr. HOWE. I am dealing with the farmer's and the distributor's share later in the day, but I can give them to you. This is with respect to the maintenance of earnings by the big distributors. The Federal Trade Commission calculated the profits earned by the milk-products companies on their invested capital for the years 1929 and 1935. During the boom year 1929 the National Dairy Products—that is the largest of the big distributors—and Borden's stood high on the list with returns on their invested capital of about 18 percent. But it was during the depression years that these companies showed their greatest ability to extract profit from the farmer on the one hand and the consumer on the other. During 1930, 1931, and 1932, when most other businesses, large and small, were showing small profits or none at all, National Dairy averaged a return of over 13 percent on its invested capital.

The Federal Trade Commission also reported on officers' salaries for 22 groups of corporations. These groups included processors of milk, tobacco, flour, and cotton, meat packers, bakeries, tanners, shoe manufacturers, wholesalers of tobacco, textiles, hides, butter, and chain stores of various kinds. The Commission's report showed the total salaries and other compensations per company and per officer. Of the 22 groups, the milk processors and dairy products manufacturers showed the highest salaries, including other compensations, over a 7-year period. During the 7 years from 1929 to 1935, the 6 milk processors and dairy product manufacturers showed a total annual compensation of \$345,000 per company. The only other group that showed a figure nearly so large was the chain department stores, with about \$330,000 total compensation per company.

The Commission gives another series of figures for the total compensation per officer. Here, too, the milk processors and dairy prod-

uct manufacturers showed an astounding record. The number of high-salaried officers in these companies varied considerably during the years from 1929 to 1935. There were as many as 106 in 1931, and as few as 71 in 1935. During the 7-year period, there was an average of 89 such high-salaried officials. These officers received on the average \$22,964 per year during that period, and this figure was the highest of any of the groups except the chain grocery retailers and the chain department stores.

Is that what you referred to? Tomorrow I will give some individual dividends of local companies, unless you want them now. Perhaps I might as well clean that up now.

Acting Chairman WILLIAMS. I think so. I think you might as well finish that part of it right now; that is, if it isn't too long and involved.

Dr. HOWE. No; that is all right. I started here to show a parallel between the returns of the distributors and the returns of the farmer. We have shown a collapse of income on the part of the farmer which, if you stop thinking in terms of a cent and multiply those cents by millions, you see will give you colossal figures, but Mr. Simpson was showing really an exhibit in hundreds of millions rather than in just small amounts.

On the other hand, we have the individual companies which are subsidiaries of the National Dairy Products Corp. To my mind the subsidiaries tell a more complete story than does the aggregate of the entire system of companies. That is for various reasons, which anybody I think who is familiar with corporate organization and methods of bookkeeping will probably agree with.

We find this. As to the Supplee-Wills-Jones Milk Co. of Philadelphia, that is a subsidiary of the National Dairy Products Corp., according to the Federal Trade Commission's report it declared dividends as follows, between 1929 and 1934, right through the depression period.

In 1929, that is the high point, the dividends were \$917,000; in 1930 they rose to \$2,719,000; in 1931, when the depression was getting under way, their dividends were \$4,215,000; in 1932 there were \$2,039,000; in 1933, \$1,563,000; and in 1934, for an 8-month period, they were \$611,000. The total for those 6 years was \$12,000,000 plus. In 6 years' time this particular company paid the National Dairy Products Corp., the holding company, about 75 percent of the original cost of the business.

Mr. BALLINGER. In other words, Dr. Howe, their dividends in 1932 were approximately two times what they were in 1929 when purchasing power was considerably greater. In fact, that was one of the years of greatest national income in our history.

Acting Chairman WILLIAMS. Have you the capital structure of that institution?

Dr. HOWE. Wait a minute. It was 75 percent of the original cost of the business, about \$16,000,000.

Mr. HINRICHS. So they reversed the process, and this is the mother milking the baby.

Dr. HOWE. Yes, sir.

The Breyer Ice Cream Co. of Philadelphia cost the National Dairy Products Corp. in 1926 the sum of \$22,000,000. This is another investigation by the Federal Trade Commission. Again in 6 years,

from 1929 to 1934, the company paid dividends to the National Dairy Products Corp. in the following amounts: 1929, \$1,238,000. Why they were able to increase their dividends so much I don't know, unless it is traceable to something Mr. Baughman has worked out with respect to closing out independent ice-cream plants, whether it was going on then or not I don't know, but they had a technique which I will describe tomorrow, making it very difficult for independents to produce ice cream.

At least in 1930 their earnings went up to \$4,500,000; in 1931 they were \$4,250,000; in 1932, \$2,250,000; in 1933, \$1,750,000; and in 1934, \$1,348,000, or total dividends of \$15,400,000.

Thus it appears again, and there is a remarkable similarity, that in 6 years' time the National Dairy Corp. received in dividends 70 percent of the original cost of the company.

This is of further significance, for the Federal Trade Commission made a study of Philadelphia and Connecticut as to all the things that went on in the industry, and they showed that while this was going on as to dividends the losses to the farmers due to practices which the Federal Trade Commission found difficult in justifying, amounted in 1934 to \$532,000. These losses issued out of underpayments for milk sold under the utilization or use plan and similar underpayments. It just seems, whether it is in Milwaukee or Philadelphia, you find the same conditions appearing one after another.

As further indicative of the possible profits of a fluid milk company, we have the Consumers Dairy Co. of New Jersey. It parallels the other. The company is capitalized at \$500,000, with a bonded indebtedness of \$428,000. This company was able to declare dividends in 1930 of \$440,000; in 1933 dividends were \$300,000.

(Senator O'Mahoney resumed the Chair.)

The CHAIRMAN. Have you stated the source of these figures?

Dr. HOWE. These are from the Federal Trade Commission.

The CHAIRMAN. Yes; but where did the Trade Commission get these figures that you are now reciting?

Dr. HOWE. From the books of the company.

The CHAIRMAN. I thought it would be important to make that clear.

Mr. BAUGHMAN. To what company does that belong, the Consumers—

Dr. HOWE. This company belongs to the National Dairy Products Corp. It was engaged in distributing milk in a number of New Jersey cities.

The CHAIRMAN. It is my understanding that the accountants of the Federal Trade Commission examined the books of these companies, and you are now giving us the results of this actual inspection of the books of these companies by the representatives of the Trade Commission.

Dr. HOWE. That is my understanding. Is that correct?

The CHAIRMAN. It is important to bring out the authority and character of these figures.

Dr. HOWE. In 3 years' time, Senator, this company paid for itself, including its bonded indebtedness, out of profits. In addition to that they made large loans to the National Dairy Products Corp. or to the Sheffield Co., which is one of its subsidiaries. I refer to the Consumers Dairy Co.

That pretty nearly closes that particular phase, but I would just like to show something else which I dug up today. It relates to the high returns of food companies during this period, and the consistency with which the earnings of the food distributors were maintained during the depression. I will draw that off, if you think wise, and put it in the record. It shows National Biscuit and a dozen other companies had the same kind of high return. It isn't germane to milk, except it is germane to agricultural economy.

The CHAIRMAN. Were these figures derived in the same manner?

Dr. HOWE. These are taken off Moody's Manual.

The CHAIRMAN. Then the material which you now offer was prepared by you from the reports published in Moody's Manual?

Dr. HOWE. That is right, sir.

The CHAIRMAN. If there is no objection, this statement may be accepted as an exhibit.

(The statement referred to was marked "Exhibit No. 368," but was later withdrawn for the substitution of another exhibit of the same number; *infra*, p. 3134.)

Mr. O'CONNELL. When you were discussing the dividends declared by these companies during this period of years, you were referring to actual dividends declared and paid to stockholders, as distinguished from earnings of the company?

Dr. HOWE. Dividends paid on invested capital and sent to New York by the two Philadelphia companies.

Mr. O'CONNELL. The reason I ask is that earnings might very well either be substantially more or in a given case less, depending on whether or not they were paying dividends out of earnings or possibly out of surplus. Dividends don't always tell very accurately how much money a particular company happens to make during the period for which the dividends were declared. You don't happen to know whether there were substantial sums in earnings which were not declared in terms of dividends during those periods?

Dr. HOWE. Added to surplus? Mr. Tackett may.

Mr. TACKETT. We don't know.

Dr. HOWE. We don't know.

We have really completed, out of order, the two sections as to the trends—

Mr. BAUGHMAN (interposing). Dr. Howe, just one point; pardon me for breaking in. In reference to these dividends, they were paid to National Dairy, which is the sole stockholder.

Dr. HOWE. Yes, sir; that is right. It is the mother company, a holding company.

Mr. BAUGHMAN. Holding all of the stock—

Dr. HOWE. For the most part, both of these companies, National Dairy and Borden's, are holding companies. They bought their plants, and so forth, by an exchange of stock or by buying out at assets value, and I think they changed their technique owing to a decision of the court. In later years they bought out the assets; in the early years they swapped stock. It is a type of New Jersey corporation carried out in a Nation-wide way.

I think that is all I have to say about those items, Mr. Chairman.

The CHAIRMAN. What is the remainder of your testimony? Mr. Ballinger indicated to me a moment ago that there was some more testimony to be elicited from you.

Dr. HOWE. I can make that as short as you want to. It relates to the excesses of power and the reaction upon the farmers and the consumers, then a short statement as to manufactured dairy products showing technique for the control of prices of cheese and other dairy products. Then I have a witness from Detroit who will terminate the milk inquiry.

The CHAIRMAN. What is his name?

Dr. HOWE. His name is George Johnson.

The CHAIRMAN. Is he an employee of the Federal Trade Commission?

Dr. HOWE. No; he is a businessman who is going to testify as to what he thinks it should cost to produce and distribute a quart of milk, what he is doing in Detroit at the present time.

The CHAIRMAN. He is a distributor?

Dr. HOWE. He is a distributor; yes, sir.

The CHAIRMAN. Then your testimony is finished for this afternoon?

Dr. HOWE. For this afternoon; yes, sir.

Mr. BAUGHMAN. Mr. Chairman, may we ask permission to substitute for the figures he asked to be presented from Moody's, to use the Agricultural Income Report from the Federal Trade Commission, which is what we have more convenient and is, we think, a little more up to date?

The CHAIRMAN. Of course, Dr. Howe, presented certain figures which he represented to be the result of his study, and they were accepted. Now, if Dr. Howe would prefer to substitute these others for that which he read—

Dr. HOWE. I would very much.

The CHAIRMAN. May I ask just where these figures come from?

Mr. BAUGHMAN. These are from the Federal Trade Commission's Agricultural Income Inquiry, Part 1, of 1937.

The CHAIRMAN. Now then, do I understand that these figures were compiled by your experts and accountants?

Mr. BAUGHMAN. That is correct.

The CHAIRMAN. In the same manner?

Mr. SIMPSON. They are better figures because they are checked.

The CHAIRMAN. But they resulted from your examination of the books of the companies which are named?

Mr. BAUGHMAN. That is correct.

The CHAIRMAN. Have these figures ever been questioned?

Mr. BAUGHMAN. They have not.

They cover flour and other relatively agricultural industries.¹

Representative WILLIAMS. Cover in general the same as submitted by Dr. Howe?

The CHAIRMAN. Food products of various kinds.

Mr. BAUGHMAN. Flour millers.

Mr. SIMPSON. But they are much more reliable than Moody's figures. They are figures which the Commission has checked with its own accountants.

The CHAIRMAN. If there is no objection, the interchange may be made; or if it is desired, both statements could very well appear.

¹Members of the Federal Trade Commission staff later decided to submit the figures pertaining to the dairy industry only.

Dr. HOWE. The Federal Trade Commission figures are more satisfactory to me.

(The figures referred to were marked "Exhibit No. 368" in place of the exhibit of the same number already introduced and are included in the appendix on p. 3134.)

The CHAIRMAN. The committee will stand in recess until tomorrow morning at 10 o'clock.

(Whereupon, at 4:30 p. m., a recess was taken until Friday, March 10, 1939, at 10 a. m.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

FRIDAY, MARCH 10, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:20 a. m., pursuant to adjournment on Thursday, March 9, 1939, in the Caucus Room, Senate Office Building, Representative Hatton W. Sumners presiding.

Present: Senators O'Mahoney (chairman) and King; Representatives Sumners (vice chairman) and Williams; Messrs. Henderson; Davis; Ferguson; O'Connell; Berge; and Hinrichs.

Present also: Edward E. Eicher, and Thomas C. B'aisdell, Jr., representing Securities and Exchange Commission; Willard Thorp, representing Department of Commerce; Federal Trade Commissioners William A. Ayres and Charles H. March; Willis J. Ballinger, director of studies and economic adviser to the Federal Trade Commission; Wilbur N. Baughman and Anderson H. Tackett, attorneys; Kemper Simpson, economist, Federal Trade Commission.

The VICE CHAIRMAN. The committee will please come to order. I assume there was a witness on the stand when you concluded yesterday afternoon.

Mr. BALLINGER. Yes, sir.

The VICE CHAIRMAN. Will you resume, please?

Mr. BALLINGER. Dr. Howe, will you discuss this morning the problem of surplus milk for the committee?

TESTIMONY OF DR. FREDERIC HOWE, FORMER CONSUMER'S COUNSEL, AGRICULTURAL ADJUSTMENT ADMINISTRATION, WASHINGTON, D. C.—Resumed

PHILOSOPHY OF FREE COMPETITION IN FLUID-MILK INDUSTRY

Dr. Howe. There are two things about an inquiry of this kind. One is a factual presentation of conditions and the second one relates to what might be considered a philosophy of free competition. As I stated yesterday, I believe in a free competitive industry and we started to prove, although we didn't complete it, that there were men in Chicago, Grand Rapids, and Detroit who were selling only fluid milk. That is the first fact about that. They were interested only in the fluid-milk industry.

The second important fact is that in Detroit the prosecuting attorney protected a distributor there and permitted him to go on as a

dealer. He is now selling milk for 6, 7, and 8 cents a quart, and I will put him on in a few minutes.

In Grand Rapids the same thing happened, while in Milwaukee a 2-year study showed that milk could be distributed in that city at 6.7 cents a quart or at 7.5 cents a quart, depending upon certain cost conditions, so that as a matter of study from testimony given by operators and the testimony of actual experience we have exhibits of low-cost milk where men were only selling milk, and were not also buying milk for cheese and butter and other purposes, and that makes a very great difference.

It shows to me at least that if we take the steps necessary to create a free competitive industry, that is, in which milk will move freely from the farmer to the buyer or the consumer, that we will have cheaper milk.

Our testimony also showed that the big distributors in combination inside the cities had demanded the right not only to pasteurize milk but to sell it and to keep other distributor methods out of the business and to confine the distribution of milk to wagon deliveries. In many cities there is no store differential. The stores have to sell at the price fixed on the wagon. In some cities under pressure they permit a tolerance of 1 cent and some times 2 cents to stores—just about enough for them to break through. But in the country-wide way, wherever we have been in the consumers counsel, we found the distributors using every possible effort to limit the distribution of milk to one agency which is a luxury agency.

Now I want to introduce an exhibit which to me—

The VICE CHAIRMAN (interposing). Before you do that would you mind explaining just a little. You say that you mentioned the necessity to pasteurize. Does that necessarily prevent the small producer, the small market, from being able to get into the market; or, rather, is it an expensive process requiring a big plant to pasteurize milk?

Dr. Howe. In practically all cities in the country the pasteurization of milk is required. Raw milk is excluded. Certified milk is admitted so that pasteurization has become a Nation-wide policy of the United States Public Health Service.

Now, second, does it require very much investment to build the pasteurization plant, and does it cost much to pasteurize? As to the cost of pasteurization, we showed yesterday from accountants' studies that it cost very little to purify milk.

The VICE CHAIRMAN. I don't want to go over that. If I wasn't here yesterday and am asking what is already in the record, please indicate it to me.

Dr. Howe. I might as well dispose of the cost of building a pasteurization plant and the difficulties of getting into the market, but that I am taking up immediately, sir.

I should like to introduce as exhibits here what I think would happen if this restriction, due to the use of a health instrument for other purposes, were ended by some kind of proceedings; that is, so that milk would go from one side of the platform to the other side of the platform, and stores and hospitals, relief administration, and people could pick it up at its production cost the way you pick up other commodities. That to me is more essential than many other things in this inquiry because it goes to the question of whether we

can produce competitive conditions as to milk by removing an obstacle to free competition, whether if we could do that in a Nation-wide way it wouldn't operate of itself automatically. If milk could be introduced in the city at the farmer's price of 4 or 5 or 6 cents, with a pasteurization plant cost of from one-half cent to 1 cent, we would then have milk like any other commodity available for wholesale buying. This is what I think would happen. Milk would be available to stores, dairy shops, independent truckmen, and all other dealers at a wholesale cost determined by the cost of production. Secondly, the farmer or the farmers' cooperative could reenter the milk industry which he lost through the coming of the combination of distributors. He would again be his own salesman, and he would enjoy an income which he once enjoyed as a distributor.

Third, hospitals, institutions, schools, and charitable institutions could buy at a cost which would permit of the wider use of milk, and it also would go into our relief agencies, who could buy milk at a lower price than the price fixed by the distributors. That would amount to colossal sums if we would just do that. The price of milk would fall to its proper production and plant costs, plus a reasonable profit. Increased consumption would follow. More milk would then go into bottles and the farmer's price would rise accordingly because he is paid a higher price for fluid milk than for surplus milk. I think there would be an end of the abuses which arise from, as shown in the Federal Trade Commission's report, bookkeeping which the farmer does not control. New methods of distribution would arise. We would have dairy shops springing up as they sprang up in Chicago. Milk would find many new outlets and many new methods of distribution now denied milk by the insistence that all milk shall be delivered by wagons.

Milk might become a popular drink at a very low cost. It might compete with soft drinks. There is no reason why fluid milk could not be handled and its consumption increased just as the consumption of soft drinks are pushed by their proprietors.

Under such conditions we would have other kinds of milk, skim milk, and buttermilk available at a very low cost.

I would like to introduce that as an exhibit.

Mr. BALLINGER. May we offer that for the record?

The VICE CHAIRMAN. It may be received.

(Dr. Howe's statement was marked "Exhibit No. 369" and is included in the appendix on p. 3134.)

The VICE CHAIRMAN. While the witness is interrupted, has the witness yet indicated how he believes this result could be obtained?

Dr. HOWE. I haven't been asked that question.

The VICE CHAIRMAN. You will come to that in the course of your testimony?

Dr. HOWE. I have some ideas about it, sir.

Now coming back to close the last thing we were discussing yesterday, which was the price schedule—

Mr. BALLINGER (interposing). Are you dealing now with the problem of surplus milk?

Dr. HOWE. I am coming to surplus milk, I am coming to the control of price fixing. Just a paragraph here. That relates to how the farmer is paid, which we did not quite complete. I think we

know enough about it except that I do want to state what I did not state yesterday as to the nine-class system in New York City. There are nine different uses to which milk is put after it is acquired by the distributor.

Mr. BALLINGER. It is all the same milk?¹

Dr. HOWE. And I want to show you how the price again falls from fluid milk to surplus milk, so-called. That is what Mr. Simpson was showing yesterday, and the New York scale of prices paid the farmer shows this pretty well. It shows what we have been insisting here, that the base surplus plan was used to channel a large volume of milk into surplus uses; that is, into butter, cheese, ice cream, and all those commodities, because 60 percent of our milk goes into manufactured products, and the 5 companies control that, or dominate at least that end of the industry just as they dominate the fluid milk industry. If they can buy their surplus milk at a distress price, they buy it for all these other commodities which are the major part of their business on which they say they make their profit.

And see how this price goes down. Class 1 milk, which is fluid milk, 4 cents a quart.

The VICE CHAIRMAN. Right at that point, to make it clear for the average person, fluid milk and surplus milk are physically the same milk until they get into process, aren't they?

Dr. HOWE. Yes, sir; they are.

The VICE CHAIRMAN. I thought it would be well if you haven't that already in the record, to make that clear.

Dr. HOWE. Except such part as might not be pasteurized on the farm, going into cheese.

I will give this by hundred pounds and it shows how the collapse takes place:

| | | | | |
|---------|-------|--------|-----|---------------|
| Class 1 | ----- | \$2.45 | per | hundredweight |
| " 2-A | ----- | 1.90 | " | " |
| " 2-B | ----- | 1.383 | " | " |
| " 3-A | ----- | 1.283 | " | " |
| " 3-B | ----- | 1.136 | " | " |
| " 3-C | ----- | 1.036 | " | " |
| " 3-D | ----- | 1.011 | " | " |
| " 4-A | ----- | .936 | " | " |
| " 4-B | ----- | .891 | " | " |

In other words, the price for 4-A and 4-B are a little less than, or in the neighborhood of a third of, what is received for class 1 milk.

The VICE CHAIRMAN. Will you explain what constitutes the difference in those designations? Have you already explained that in the record?

Dr. HOWE. I explained that yesterday and I will put it in connection with this classification here.

Mr. BAUGHMAN. May I ask this: If there was a greater demand for fluid or bottled milk, that same milk that you call surplus milk could have been used in bottles, could it not?

Dr. HOWE. Thank you very much. That is the gist of my approach to improving the farmers' condition. If we can sell more fluid milk at a proper price the consumption of fluid milk will go up and then the farmer will begin to be paid at \$2.45 a hundredweight, instead of being compelled to accept a distress price for a surplus

¹ Dr. Howe evidently did not hear the question.

created largely because of the low consuming power of the people due to a high price. I think that is natural experience.

The VICE CHAIRMAN. Have you put into the record already what determines fluid milk, and whether or not the surplus milk—

Dr. HOWE (interposing). Roughly, 60 percent of the fluid milk goes into commercial production and 40 percent into surplus.

The VICE CHAIRMAN. The buyer keeps the books?

Dr. HOWE. The buyer keeps the books. He determines how the milk shall be used after it reaches his plant and in some jurisdictions even the farmers' cooperatives may not examine the books. In other jurisdictions they claim to examine the books, and I believe in latter years there are some places where the State authorities have required that the books be open to examination.

Senator KING. Doctor, may I ask a question? Are you familiar with the rules which were promulgated by Mr. Tugwell when he was connected with the Agriculture Department and put into effect in Los Angeles, which rules as I recall—and I made an investigation several years ago—resulted very disadvantageously to the producer of milk and tended to monopolize particularly control by a limited number of firms, and that monopolistic control, as I recall, was based upon rules and regulations promulgated by the Agriculture Department and by Mr. Tugwell; are you familiar with that?

Dr. HOWE. Well, Senator, I don't believe Mr. Tugwell was responsible for that. I was Consumers' Counsel, as you may remember, and I don't think Mr. Tugwell directly or indirectly entered into the picture. But the consumers' counsel and the legal division did go around the country establishing marketing agreements.

Senator KING. The incident to which I refer bore the imprimatur of Mr. Tugwell. His name was attached to the rules and regulations that were promulgated.

Dr. HOWE. They were? Those marketing agreements were part of the same system that was set up as to codes in the N. I. R. A.¹ The assumption was that the business end of the industry and the consumers' end of the industry could get together and reach an agreement as to what were proper prices to be paid the farmer at one end and the consumer at the other.

Senator KING. My recollection is that those rules and regulations were productive of monopolistic control to the disadvantage of the producer and certainly of the consumer. I was wondering whether you were familiar with those as they were promulgated.

Dr. HOWE. I was pretty familiar with them in a country-wide way, Senator.

Senator KING. Were you familiar with the investigation which was conducted here in the District of Columbia 2 or 3 years ago with respect to milk control?²

Dr. HOWE. Do you mean the Senate committee of which you were a member?

Senator KING. Yes; I was chairman of that subcommittee.³

¹ National Industrial Recovery Administration.

² Sale and Distribution of Dairy Products in the District of Columbia, hearings held pursuant to S. Res. 76, 73d Cong., 2d sess., S. Rept. 468.

³ Senator KING is chairman of the District of Columbia Committee of the United States Senate.

Dr. HOWE. Well, Senator, you are listening to a hearing this morning, I think, partly at least, due to your breaking into that industry. I think that was the first suggestion to the country as a whole that here was an industry that should be studied. At least my interest in it as consumer's counsel was awakened by that study, and I think I can say from reading your testimony that anything that has been introduced in evidence here was not only confirmed by the Senate committee, but in my judgment your committee exhumed things by the direct testimony of representatives of the milk companies that we have never been able to get.

Senator KING. We were glad to make a pretty full presentation of the evils of the milk monopoly, and I might say that I am receiving complaints now from consumers in the District of Columbia that come to me because I happen to be chairman of the Senate District Committee, in which they state that the same evils that then existed are perpetuated and that the price of milk, of fluid milk to the consumer here, is entirely too high, and that the profits of the organizations which control are entirely too great, and that the producers of milk themselves are participants in the plan under the terms of which such a limited quantity of fluid and such a large part of so-called—

Mr. BALLINGER (interposing). Senator, may I say our investigation of 1934 showed many identical conditions to those existing in 1921. It seems to go on year after year.

Dr. HOWE. And, Senator, may I ask you, because I haven't the time to investigate: It is my recollection that when you had one of the officers of one of the large corporations on the stand that you yourself developed a number of subsidiaries that even the president of the corporation didn't know existed. Do you recall that incident?

Senator KING. I have a faint recollection. I know there were so many ramifications, if I may use that term, that it was very difficult to get all the facts connected with those organizations, those subsidiaries.

I haven't come here for the purpose of fortifying your testimony.

Dr. HOWE. Since you are responsible for it, the father of it—

Mr. HINRICHS. May I ask some questions along this line? Dr. Howe, as I understand it, it is your belief that a single price for milk of a given quantity, butterfat content, and so forth and so on, which would be a competitive price, would be more advantageous to farmers than the present class price system. Is that correct?

Dr. HOWE. That is my impression, or that is my conviction.

Mr. HINRICHS. The various marketing agreements that have been established make provision for a class price, do they not?

Dr. HOWE. They accept them. They did; I assume they do now.

Mr. HINRICHS. Did that come to be accepted over the opposition of the Department of Agriculture or the A. A. A.?

Dr. HOWE. I would say that my division at least discovered some of the kinds of abuses that have been since disclosed by the Federal Trade Commission; that the farmers appearing before those hearings said, "We never know what we are going to be paid for our milk until some weeks after we make the delivery"; and we were aware of that situation inside the industry in a Nation-wide way, and I personally felt that a flat price would clean up those abuses and probably yield the farmer a higher price for his milk.

Mr. HINRICHs. You were the consumers' counsel?

Dr. HOWE. Yes, sir.

Mr. HINRICHs. And were representative particularly of the consumers' interest in the price determinations that were made. Is that not correct?

Dr. HOWE. Primarily; yes.

Mr. HINRICHs. Did the farm organizations oppose the class price system or did they oppose, rather, the fact that they were getting too little for their milk?

Dr. HOWE. Well, again you will have to differentiate farmers. Around about our cities there are at least 50 pure-milk associations or other farmer organizations who more or less control the pure-milk market. They are acquiescent in the classification plan.

Mr. HINRICHs. Why?

Dr. HOWE. Farmers outside of that area who have to sell at whatever they can get are either indifferent to it or disapprove of it. I think that is a fair statement.

Mr. HINRICHs. Coming back to this competitive price that you would like to see established as a single price for all milk, you say that approximately 60 percent of the milk consumption at the present time goes into manufactured products, largely butter and cheese and evaporated milk.

Dr. HOWE. That is right, sir. Canned milk is a large user.

Mr. HINRICHs. I included evaporated milk as the third of the large uses. Under a competitive market with a lower price for fluid milk you would expect a somewhat larger quantity of milk to be consumed from bottles. You certainly would not expect that all of that 60 percent would enter into the fluid milk market, would you?

Dr. HOWE. No.

Mr. HINRICHs. Large quantities, very large quantities, would still be used in butter, cheese, and evaporated milk.

Dr. HOWE. Undoubtedly.

Mr. HINRICHs. Have you made studies as to the elasticity of demand for these various products?

Dr. HOWE. We have very little opportunities to make that kind of study.

Mr. HINRICHs. Who has very little opportunities?

Dr. HOWE. The country has.

Mr. HINRICHs. The figures are abundantly available in the Department of Agriculture for studies of elasticity in demand in almost all agricultural commodities, aren't they?

Dr. HOWE. We have had no markets except Detroit, and for a limited period in Chicago, at which milk was sold at a price sufficiently below the house-to-house delivery price, to make any calculations of any value. I might add that my division said that the store sales did show an increase on consumption. That was protested by the distributors, who said: "Well, that isn't true. House-to-house delivery means the biggest consumption."

It is true that in Chicago—and I am sorry I haven't those exact figures because I didn't know it was coming up—the opening up of these dairy shops all over the poor sections of the city, the witnesses stated, created a demand for milk on the part of people who had never used milk before. They said that the increased milk which the

farmers could sell at a class 1 price was between 400,000 and 600,000 quarts a day. Now, I can't prove that; that was just what was stated at a hearing. I think the next witness will tell you what has happened in Detroit from the distribution of milk solely over the counter.

Mr. HINRICHS. I would like to come back to this competitive price. I think it is generally believed that the demand for fluid milk is somewhat less elastic than the demand for butter and the demand for cheese. If that is the case, the price at which all milk will sell is going to be fixed by the marginal price for milk entering into butter and cheese, is it not? I mean that is in accord with competitive price economics.

Dr. HOWE. I can conceive of a lower price being paid for butter and cheese milk than for pure milk. First, it has to be hauled a greater distance to cities; it has to be more carefully guarded; it has to be bottled, and there is a heavier distribution cost there. I think probably the farmer would be willing to accept a lower price for his surplus milk, although I found countries in Europe where a flat price was paid and nobody ever thought of paying a different price for one use of milk than for another use of milk. It is an American institution so far as I know.

Mr. HINRICHS. I grant possibly the uniqueness of the situation. You know much more about that than I do. I am trying to inquire into the advantages of a change in the pricing system to the farmer, and it would seem that with a competitive price set on the marginal price of butter and cheese, you might conceivably have a lower net return to the farmer on all milk than you have at the present time. I can conceive of a situation in which the two-price system gives the farmer perhaps not enough for his milk but gives him an advantage which he would not have if he were open to complete competitive forces. Would you agree with that?

Dr. HOWE. I haven't advocated a one-price system, sir, at any time.

Mr. HINRICHS. Then I have misunderstood you. I thought you disliked the two-price system as evidence of monopoly.

Dr. HOWE. A flat price instead of a system graded as it is in New York; that is, that the farmer, when he sold his milk to a distributor, knew in advance what his milk was to be used for and he got, let us say, a price of 4, 5, or 6 cents for that milk instead of the price that he doesn't know what it is going to be until 6 weeks afterward.

Mr. HINRICHS. How are you going to distribute—that is too long a question.

Dr. HOWE. Just to add one thing more to the question of the expansion of consumption, we know how cigarettes and all other commodities are distributed, how the proprietary interests seek to find just as many outlets as possible. I think if we had milk available to shops, stores, dairy shops, all kinds of agencies, we would find milk was being brought down close to the people in a great many ways that we don't know about at the present time. At the present time that is happening in New York, where Mayor LaGuardia has made some arrangement whereby milk is being sold at 8 cents and people can come and get it, just as in Chicago people can go out and pick up

milk at a reasonable price to the farmer, and in Detroit people can pick it up and many of them drive baby carriages around for it.

Mr. BALLINGER. If there are 7,000,000 undernourished children in this country, if you reduced the price of milk you probably would increase the consumption. People aren't going to starve their babies unnecessarily if they can possibly get the milk.

Mr. HINRICHS. Mr. Ballinger, I have indicated all along the fact that I am decidedly interested in lower prices for milk, that I think that there is a very real connection between the price of milk and the amount which is consumed. The point that I was questioning was whether Dr. Howe had introduced evidence that indicated the disadvantage to the farmer of a class-price system.

Dr. HOWE. I just want to supplement that a bit. I think under any circumstances the farmer must have an organization of his own to protect himself; he must have that, otherwise we would have cut-throat competition, but if he is able to create a cooperative to bargain, he would be much stronger as a bargaining cooperative if he could have the milk under his control until it was ready to go to your doorstep or to go to the shop.

Mr. HINRICHS. That is, if you could have a nice monopoly.

Dr. HOWE. Well, I would rather trust farmers who had to fight to get a large consumption and who were greatly concerned in getting their milk off the farm in the largest possible volume, reaching a proper understanding in relationship to the cities; yes, I would trust that.

Mr. BALLINGER. Doctor, you would want competing cooperatives; you wouldn't want to put the milk business in the hands of a whole cooperative and establish monopoly at one end of the line while we are trying to establish competition at the other end?

Dr. HOWE. No; I would want to have milk available for you or your son if he wanted to pick it up, or a hospital; but if the cooperatives wanted to go into the distribution business they are welcome there. I would like to have lots of people distributing milk.

The VICE CHAIRMAN. Doctor, has the two-price system for milk to any degree grown up out of the effort of cooperatives to prevent one person from getting a larger proportionate share of the high-price market than the rest of them get?

Dr. HOWE. Has it grown up to protect the members of the cooperatives against people outside of the cooperative?

The VICE CHAIRMAN. No, sir; I would like to state my question just as I did state it. I will restate it: Has the two-price system for milk grown up out of an effort of cooperatives to distribute among their members a proportionate share of the high-price market?

Dr. HOWE. I think they have cooperated, yes; they like that system, naturally.

The VICE CHAIRMAN. Otherwise, possibly, one man would get all his milk in at the high price, whereas those who weren't so able and fortunate in their bargaining would get in at the low price if they got to the market last. That is a very poor way to put it, but I have been out in the country and talked to some of these people who are engaged in the business and they seem to have some idea that in a country producing, for instance, as the environment of Washing-

ton, the people who are in production ought to share proportionately in the high price and in the low-price markets for their stuff. To what degree that enters into the general arrangement I don't know.

Dr. HOWE. I should say that was generally true throughout the country.

Senator KING. Dr. Howe, isn't it a fact, though, that in the distribution of milk from the farmer who produces it to the ultimate consumer, the costs are very great, necessarily: Transportation, the method of distribution, the cost of maintaining stores in which the products of the farmer are sold, the high rents in cities, and so on, so that complete uniformity is almost impossible because of the varying factors which ultimately must rest upon the commodity when it is sold to the ultimate consumer.

Dr. HOWE. We do know, however, that stores are willing to sell over the counter for a cent or a cent and a half and two cents a quart.

Senator KING. If it is delivered to them.

Dr. HOWE. If it is delivered to them from the plant.

Senator KING. But the costs of first inspection which ultimately rest upon the consumer, and the increased requirements for the production of pure milk, are being multiplied and the transportation costs, then the gathering up of the milk from the various farms in the country, and bringing it to a central depot and from there distributing to the individuals and to the stores, and so on—all of those costs necessarily add to the price of milk when it reaches the ultimate consumer.

Dr. HOWE. And the farmer's burden, too.

Mr. BAUGHMAN. Dr. Howe, isn't your larger cost what is called the luxury delivery system through the wagons, and haven't you figures on that?

Dr. HOWE. We introduced yesterday, Senator, 12 leading cities showing an average farm price f. o. b. the plant of $5\frac{1}{2}$ cents, a delivered price of $12\frac{1}{2}$ cents, and a spread of 6.07 cents for distribution and plant costs, so that is where the large spread is to be thought about.

Senator, you know just as well as I do that this just goes in all kinds of directions, wherever you touch it and that question of health inspection runs into ice cream, it runs into all the commodities connected with milk.

Senator KING. I am receiving complaints now to the effect—I don't say that they are warranted—that there seems to be a determination—I will not say a conspiracy—to impose such restrictions with regard to inspection, and so forth, that necessarily add to the costs and tend to monopolize the commodity, particularly in the large cities. Some complaints that I have received are to the effect that the farmers of two contiguous States unite together for the purpose of excluding from the market which they now have milk which might come from other sections of the country, other States; in other words, that there is a growing disposition to have a local monopoly and to exclude to other States the invasion of that monopolistic area by the importation of milk in that area.¹ Have you found any evidence tending to support that?

Dr. HOWE. That is the self-protective instinct, Senator.

¹ See footnote 2, *supra*, p. 2817.

Senator KING. I am not debating it. I am simply calling attention to the complaints coming to me to that effect, that barriers are being erected against the introduction into various States or segments of their States, of milk from beyond the borders of that limited area.

Dr. HOWE. That is up in Washington at the present time, as I understand it, where milk is brought in from Indiana. I believe it is transported from Michigan to Boston in much the same way, and I am not sure but that it comes into Philadelphia in the same way. I think we have evidence along that line.

The VICE CHAIRMAN. Doctor, do you find evidence of a conspiracy between groups of fairly close producers and distributors within the city?

Dr. HOWE. The farmers' cooperatives and the distributors you mean?

The VICE CHAIRMAN. Yes; who put prices high beyond the reach of the average person.

Dr. HOWE. Congressmen, the representatives of the farmers elected by the farmers' cooperatives sit on one side of the table; the representatives of the distributors sit on the other side of the table.

The VICE CHAIRMAN. And the people don't sit.

Dr. HOWE. Not at that table. And this is the purpose of the bargaining coop: It is to get as high a price as possible for its members. Now on the other side of the table is another group that wants to pay the farmers as little as possible for their milk. In that situation the farmers have an alternative. They have just one as far as I can see. If they don't like the price that is agreed upon they can keep their milk at home or they can dump it in the road as they did up in Wisconsin, and after 2 or 3 days public opinion on the one hand and their own necessities would normally bring them to terms. They are pretty helpless, you know, in that kind of bargaining.

The VICE CHAIRMAN. Doctor, have you made suggestions as to how you might create conditions that would give freer access of milk to the market.

Dr. HOWE. I haven't made such suggestions.

The VICE CHAIRMAN. Are you going to before you get through?

Dr. HOWE. If the committee asks it.

The VICE CHAIRMAN. That is the only purpose; that is what I am interested in about these hearings. What are we going to do about it? I can get out in the country and find out a good deal of that in a day and a half.

Dr. HOWE. I haven't been worrying about that for 5 years without looking around for a way out.

The VICE CHAIRMAN. That is what I am interested in. You can show us the way in; I can find the way in. I am interested in somebody who can show us the way out. I don't know whether I am breaking in on this play or not. I don't know what the arrangement is. If you don't want to do it now, I should like to have a little visit with you privately after a while. Am I interfering at all?

(Mr. Ballinger shook his head in the negative.)

The VICE CHAIRMAN. All right; let's have it.

If I am embarrassing this play, I will back out.

Mr. BALLINGER. Mr. Chairman, may I say our fundamental task was just to show the existence of monopolistic conditions in these

industries. When you get to the question of remedies, the witness may have some ideas of his own which may be in conflict with the ideas of the Federal Trade Commission, and it is rather difficult to distinguish the personality of the witness from the personality of the Federal Trade Commission.

The VICE CHAIRMAN. Those are a lot of big words, and it is perfectly overwhelming to me and I will quit.

Mr. BALLINGER. If you should like it, Mr. Chairman, we will be glad to have Dr. Howe file with you his views as to how this situation can be cleared up.

The VICE CHAIRMAN. Thank you.

Dr. HOWE. Well, in answer to that, it reduces to the fact that I am an old-fashioned Jeffersonian Democrat, and I think society is best where the ingenuity and resourcefulness of all men are free to play on their opportunities, and if we can get milk through this gateway so a lot of people can get it and distribute it their own way, then that is step No. 1, but I don't think that solves the problem by any means. It just solves or approaches a solution of part of it.

The VICE CHAIRMAN. Of course, we aren't going to solve any problem and have it stay solved. We are going to have to keep on solving it all the time. That is the thing that makes life, I suppose, but we have postponed working at that for a good while and probably will have to do a little double work now.

Dr. HOWE. I am satisfied that where you have free competition you have solved competition as to the dollar watch, as to a radio, as to an automobile. Wherever we have free play of all competition from start to finish and the mind of man, the ingenuity of man works on it, there we have a pretty good society; and just as soon as, by law or otherwise, you interfere with those great operative forces that made America what it was for 300 years before these obstacles got in, where every man had his own farm and his own buildings, why we took the poor of Europe and made this the greatest Nation in the world under a philosophy of free competition.

The VICE CHAIRMAN. Well, if Government can remove the obstructions and permit the possibility of democracy and opportunity, we won't have to do very much more in government.

Dr. HOWE. Well, you pretty nearly stated my philosophy, sir.

The VICE CHAIRMAN. Oh, yes; you're smart.

Mr. BALLINGER. Mr. Chairman, the representative of the Federal Trade Commission, Commissioner Ferguson, feels that it would be perfectly all right for Mr. Howe to express his personal views if you would like to hear them at this time.

Senator KING. I suggest that we conclude what the Commission desires to present, and then that we interrogate Dr. Howe along broader fields.

Mr. HINRICHS. Mr. Chairman, coming back to this thing that Mr. Howe just said, of giving full play to competitive forces, I want to state again that I believe that it is in the highest public interest that the price charged should bring milk within the reach of the mass of the population. From the urban dweller's point of view, the full play of free competitive forces sounds very attractive in the milk industry. But is the competitive system necessarily one which is going to work in the public interest? Isn't the farmer in this par-

ticular situation, in the position of the weakest of all competitors, so that the full burden of any shrinkage in the retail price of milk, butter, cheese, whatever you have, is likely to fall back directly into the farmer's lap, given the aggregation of individuals into large cities, so that you have to separate the distribution of the milk from the individual of the farmer.

NEED FOR PROTECTION TO FARMER

Dr. HOWE. I am glad you asked that question, because I don't want it to be said, which isn't true, that I am suggesting a situation which creates a greater distressed market for the farmer than what he has at the present time. I think it is necessary to have some kind of authority which will make it easily possible for the farmers to act for themselves; and, second, a protective authority that will encourage and protect them in that. Now it may conceivably be that an authority would have to say that in some city, maybe, no milk shall enter the city of Washington for which the farmer is not paid 6 cents a quart for. That can be very easily done by the Board of Health.

Mr. HINRICHS. You don't mean to say that that is a competitive system.

Dr. HOWE. That is a competitive system after it gets to the market. How that should be done I don't know, because we are living in a community in which we have half of our social civilization in the hands of monopoly and the other half freely competitive. The great problem of agriculture is that the farmer has to buy things that are monopolized and has to sell things that are not monopolized, and the A. A. A. philosophy is that we have to put both parties on an agreement, and I think you have to make the farmer, whether he is a milk farmer, a cattle farmer, or a vegetable farmer, in some way protected against the complete cutthroat competition of producing too much in the first place and being compelled to sell too much on a distressed market.

Mr. HINRICHS. Suppose you establish completely free competition in the distribution of milk in the city of Washington or in any other city that you like. The farmers in the surrounding country, as I understand it, have cows that yield in the neighborhood of 4,000 pounds of milk a year, more in some months, less in others. That milk has to be sold. When you gave this picture of the farmer putting the milk in the back of the buggy and taking it into the village you had that man engaged in a complete process and he couldn't possibly distinguish in his own mind between the costs that he got for his milk and the costs that he got for his labor in distribution.

Dr. HOWE. Yes.

Mr. HINRICHS. But the instant that you separated the farmer from the process of distribution you introduced a new cost process in there. The people who are going to make up their minds as to whether it is worth while to distribute milk under a competitive system are going to have their own concepts of cost in mind, are they not?

Dr. HOWE. Yes, sir.

Mr. HINRICHS. And the farmer is going to be in a position where he has got to milk his cows. He can't even withhold the milk from coming out. The harvesting costs have got to be incurred.

(Senator King assumed the Chair.)

Dr. HOWE. Absolutely.

Mr. HINRICHS. Now, under those conditions you have created a situation where, even though there were no monopoly in the farmer's selling environment, he would none the less be a terrifically weak competitor.

Dr. HOWE. Absolutely.

Mr. HINRICHS. And you would expect him to take, under full competitive conditions, the full brunt of changes in the retail market, wouldn't you?

Dr. HOWE. No; not at all.

Mr. HINRICHS. Why not?

Dr. HOWE. I didn't complete my story of what I would do and I don't feel I know enough about it, but just to add this: My philosophy up to the present time is a free market inside the city of distribution so that anybody can distribute. If a farmer's coop outside of that wants to sell milk, well and good. It may still remain a bargaining coop. For the time being I am interested only in the question of distribution inside the city where there is a spread of 6.7 cents to see whether we can cut that down to normal operating cost. To attempt to solve the whole agricultural problem by one formula, I don't think that can be done.

Acting Chairman KING. I hope we are not going to investigate the A. A. A. and the control by the Agriculture Department or any department of the production or distribution. I agree with you that there must be this competitive system and free play, but I don't feel like we can make any progress if we are going to investigate the A. A. A.'s philosophy as that was formally announced. I don't want to interfere with my friend's questions, but it seems to me we would make better progress if we had Mr. Ballinger go ahead and present what the Federal Trade Commission desires; and then questions can be propounded along the lines of those by the representative of the Department.

Dr. HOWE. The question has been asked this morning why it isn't possible, under this situation, for anyone to build a pasteurization plant and sell milk inside a city. Let me just run that through. First, whoever wants to build has to get some capital. In the Cleveland story, which I have here, the farmers invested \$1,600,000 in a competitive plant. They got a loan from one of the banks there of \$150,000 to keep it going, and some forces forced the bank to recall it, and they had to come to the Farm Credit Administration for money. That is obstacle No. 1.

Second, they have to build up the distribution inside the city, either to the stores or to the houses. I wish to present here what happened in Chicago under the indictments of the Department of Justice, but in all cities they have to get wagon deliverers who will handle their milk. They have to deal with the truckmen's union. In those cities that we know something about, the truckmen's union says, "No; we are sleeping with the existing distributors here. It is too bad; you can't get into this bed. If you try to get in that bed we will throw you out," which is what happened in Chicago, which happened, Mr. Johnson¹ will show, in Detroit.

¹ George A. Johnson; see testimony beginning p. 2829.

Acting Chairman KING. You might add that that is what happened in Washington yesterday. The truckmen's union said, "We will not deliver milk to these hotels."¹

Dr. HOWE. It is one of the devices used inside the city.

The third obstacle: Milk is delivered in glass bottles. In every good-sized city they have a bottle exchange. The Chicago indictments show that that bottle exchange is controlled by the big distributors. I am an independent. I come in and I have my capital going. I have built up my routes either to the stores or to the houses, but I don't get my bottles back. They are picked up by somebody and they are either broken until I get wise and learn that I lose 5 cents on every bottle, that I can't sell milk unless I meet the terms of the bottle exchange; or they go to the store and pay the storekeeper—as they did in Cleveland—2 or 3 cents a bottle and get my bottles that way. So again I am stopped.

Finally, this Cleveland story about the destruction of a farm cooperative is one of the most dramatic stories I have ever read. It came from a manager who was connected with the Guardian Trust Co., certainly an honorable man. Finally, not being able to destroy this farmers' cooperative otherwise, they sent somebody around to the platform of the houses to put dirt in the bottles, and when the cooperative came again they said, "Oh, no; your milk is dirty; you can't deliver any more milk to this apartment."

Finally, he told me, he just couldn't stand it, and his wife said to him, "You have to get out of this," and he resigned from the farmers cooperative and went to California, and we have been trying to reach him but we can't find him. He didn't leave his address.

That is just one story where the trust wanted to buy a competing farm cooperative; and just to complete this, because I haven't any doubt but that this story is true, I have this, which I would like to introduce into evidence if somebody will examine it to see that it isn't improper. He arranged to sell that plant for \$1,000,000, at a loss of \$600,000, arranged with the president of one of the large distributors; they closed the deal the night before. The next morning they met in the lawyer's office to complete it and the lawyer, an old friend of mine, said this to him: "Now, don't you know better than to try to sell the plant for a million dollars to our people?"

Mr. BALLINGER. What was the name of that large distributor?

Dr. HOWE. I would a little rather not introduce that, if you don't demand it.

Acting Chairman KING. Proceed without it. We respect your reticence.

Dr. HOWE. The lawyer said, "Before we get through with this we will get your plant at 25 cents on the dollar." The cooperative came to the Farm Credit Administration and got credit enough to carry on. They finally threw the plant into bankruptcy, and today the Farm Credit Administration is running that plant up there in order to pull itself out. That is a story which is a concrete story of the things that might happen to a man who wanted to enter the business, and if you care to have an abstract of the indictments in Chicago, you will find that everything that has been suggested here is confirmed

¹ At the time of these hearings, certain hotels in Washington were being picketed during a strike.

by the indictments of ninety-six or seven people out there, including public officials, distributors, farmers' cooperatives, milk associations, the truckmen's union, the bottle exchange—right straight down the list, and they are now up for trial; and motions and demurrers are being heard.

Those are the obstacles which I think would meet you or me if we tried to go into the sale of milk inside the city, unless we were willing to join hands with those already there, and that is what has happened to most of them. Some farmers' cooperatives have gone into a city and said we are going to play the game with the rest of them, and they are getting as much as anybody else is getting out of it. Others who have tried to go in have been subjected to the kind of thing my friend, Mr. Johnson, will talk about later.

Mr. **BERGE**. I would like to make a correction for your protection and the Department of Justice. You said these practices were confirmed by the indictments. We hope they will be confirmed or we think they will be confirmed by the trial, but I think I would like to have the record show that the indictment charges are what you stated, and the grand jury found there was sufficient evidence to warrant indictment.

Dr. **HOWE**. Thank you very much. If I had read it, I would have said these were taken out of the indictments of the grand jury.

That is about all I want to say. The Cleveland story is the statement of this banker whom I talked with personally. It is as good as any other evidential matter, I think. After he got through talking with me I asked him to write it down, it is signed by him, and it is the dramatic story of the destruction of a farmers' co-op. It is a pretty terrible story.

I think I have talked all I need to talk about the farmers' cooperatives and the difficulties they have in protecting themselves. They have but one alternative, except the negotiating alternative, and that is to stop delivering milk.

Mr. **BALLINGER**. Are you ready to present your witness?

Dr. **HOWE**. I have nothing left but the manufacture of dairy products to dispose of and I think this is a good time to put Mr. Johnson on the stand.

(The clerk of the committee asked if the banker's statement to which Dr. Howe referred was to be admitted as an exhibit.)

Acting Chairman **KING**. I suggest that be given to Judge Davis and the representatives of the Federal Trade Commission and if they feel it ought to be introduced, they can bring it to the attention of the committee.

Dr. **HOWE**. Mr. Chairman, up to date I haven't mentioned, I think, the name of any individual man. I have tried not to pin this on any individual company except as they were major factors. It isn't wholly the fact that there are two or three large agencies. It is due to the fact that when two or three large agencies in any industry are powerful enough, they bring others in and agree about the same situation as if there were only one.

(The next witness approached the witness table.)

Acting Chairman **KING**. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **JOHNSON**. I do

TESTIMONY OF GEORGE A. JOHNSON, JOHNSON MILK CO.
DETROIT, MICH.

AN INDEPENDENT MILK DISTRIBUTOR

Acting Chairman KING. State your name and such qualifications as Mr. Ballinger may ask for.

Mr. BALLINGER. I would like to ask Dr. Howe to qualify the witness.

Dr. HOWE. Mr. Johnson, I am going to ask you to confine your answers to the specific questions I ask you, or are asked you by the committee, and then add to that; if you have some general statement to make with respect to questions which we don't ask, you will be permitted to do that. But I think it will speed up the hearing if you talk as definitely as you can to the questions asked first.

Your full name is what, Mr. Johnson?

Mr. JOHNSON. George A Johnson.

Dr. HOWE. Your address?

Mr. JOHNSON. Detroit, Mich.

Dr. HOWE. What is your business?

Mr. JOHNSON. I am in the milk business in Detroit.

Dr. HOWE. What is the name of your company?

Mr. JOHNSON. Johnson Milk Co.

Dr. HOWE. How long have you been operating in Detroit?

Mr. JOHNSON. Since January 1, 1936.

Dr. HOWE. Did you operate any place before Detroit?

Mr. JOHNSON. Grand Rapids, Mich.

Dr. HOWE. How long there?

Mr. JOHNSON. About 13 years.

Dr. HOWE. How long all told have you been in the dairy business?

Mr. JOHNSON. All my life.

Dr. HOWE. Was your father in the dairy business before you?

Mr. JOHNSON. Yes; and my grandfather before him.

Dr. HOWE. In the United States?

Mr. JOHNSON. Sweden and the United States—the farmer's milk man.

Dr. HOWE. Now, we will begin at Detroit. Exactly what do you distribute in Detroit?

Mr. JOHNSON. I have milk depots and I distribute milk and cream and dairy products.

Acting Chairman KING. Pardon me, are you alone or do you have a corporation?

Mr. JOHNSON. I am alone. I am doing business as the Johnson Milk Co.

Dr. HOWE. What do you manufacture?

Mr. JOHNSON. I have just started to manufacture butter and cottage cheese.

Dr. HOWE. Up to the present time you have limited your business to fluid milk?

Mr. JOHNSON. Milk and cream exclusively.

Dr. HOWE. How do you buy from the farmer?

Mr. JOHNSON. I buy direct from the farmer. I make my own contract direct with the farmer himself.

Dr. HOWE. You don't deal through the association?

Mr. JOHNSON. Not at all.

Dr. HOWE. What do you pay the farmer?

Mr. JOHNSON. I pay the farmer \$1.50 per hundredweight for 3.5 test at Detroit.

Dr. HOWE. Is that the only price you pay the farmer?

Mr. JOHNSON. That is the only price.

Dr. HOWE. What does that amount to per quart?

Mr. JOHNSON. For 3.5 test milk it is about $3\frac{1}{3}$ cents per quart.

Dr. HOWE. That is the only milk you buy?

Mr. JOHNSON. That is the only milk I buy.

Dr. HOWE. Do you increase the butterfat content for other qualities of milk?

Mr. JOHNSON. I get a 4 cent per quart differential.

Dr. HOWE. And you sell your milk at what?

Mr. JOHNSON. I sell 3-percent milk at 6 cents, 3.5 at 7 cents, and 4 percent milk at 8 cents per quart.

Dr. HOWE. So you give the farmer a differential for the milk?

Mr. JOHNSON. I get a 4 cent per quart differential.

Mr. JOHNSON. Yes.

Dr. HOWE. And what would the farmer get then for your 4-percent differential?

Mr. JOHNSON. \$1.78.

Dr. HOWE. And for your 3.5?

Mr. JOHNSON. \$1.50.

Dr. HOWE. How does that compare with the price paid by the distributors in Detroit?

Mr. JOHNSON. About 10 cents per hundredweight more than the blended price.

Dr. HOWE. You are familiar with that price, are you?

Mr. JOHNSON. Yes.

Dr. HOWE. Paid by the distributors?

Mr. JOHNSON. Yes.

Dr. HOWE. How do you know that fact?

Mr. JOHNSON. I call up my competitors; I talk directly with the farmer; and I also get a copy of the Milk Message, the official organ of the Michigan Milk Producers Association, from the various farmers.

Dr. HOWE. Are the farmers willing to sell to you at that price?

Mr. JOHNSON. I have trouble keeping the farmer from selling me. Most of the time I have too much milk.

"CASH AND CARRY" METHOD OF DISTRIBUTION

Dr. HOWE. How do you distribute your milk, again?

Mr. JOHNSON. Directly over the counter in "cash and carry" or "pay and take" milk depots.

Dr. HOWE. You don't carry it to the house at all?

Mr. JOHNSON. Not at all.

Dr. HOWE. Not a quart?

Mr. JOHNSON. Not a quart.

Dr. HOWE. What do these plants cost to equip them?

Mr. JOHNSON. About \$1,500 for each depot.

Dr. HOWE. How much do they distribute per depot, per diem?

Mr. JOHNSON. I would say about 1,000 units.

Dr. HOWE. All told?

Mr. JOHNSON. All told.

Acting Chairman KING. I didn't quite understand; does the distributor come and buy from you at your place of business?

Mr. JOHNSON. No; I own my own depot and sell directly to the public. The public comes and buys from me at the depot.

Acting Chairman KING. You make no distribution yourself?

Mr. JOHNSON. Not at all.

Acting Chairman KING. Are most of your sales made directly to the individual user and consumer, or to distributors who may then make distribution or make the sale to the consumer?

Mr. JOHNSON. They are made directly to the consumer, not at all to any distributor.

Dr. HOWE. You have no house vendors at all?

Mr. JOHNSON. Not any.

Dr. HOWE. Tell me what part of the city of Detroit are your shops located?

Mr. JOHNSON. They are scattered equally around all the busy streets of Detroit, the principal streets of Detroit.

Dr. HOWE. That is, among rich sections, middle-class sections, and poorer sections?

Mr. JOHNSON. Yes.

Dr. HOWE. Do rich people buy at your shops?

Mr. JOHNSON. They drive up in Packard cars with colored chauffeurs, and buy it. I presume they are rich.

Acting Chairman KING. How many shops have you?

Mr. JOHNSON. Forty.

Acting Chairman KING. In the city of Detroit?

Mr. JOHNSON. Yes.

Dr. HOWE. What were your sales when you began in 1936?

Mr. JOHNSON. The first day I sold 26 quarts of milk and 6 of those I took home. I actually sold 20 quarts to the public.

Dr. HOWE. You own your own pasteurization plant?

Mr. JOHNSON. Yes, sir.

Dr. HOWE. Who collects the milk from the farmer?

Mr. JOHNSON. I have three trucks that collect milk, that I own, and the rest of the trucks are owned either by the farmer or contract haulers that they have picked out themselves.

Dr. HOWE. What is your cost of haulage per quart from the farm?

Mr. JOHNSON. I pay these trucks 30 cents a hundredweight, or the farmers pay—it is deducted from the farmer.

Dr. HOWE. That amounts to how much?

Mr. JOHNSON. About two-thirds of a cent.

Dr. HOWE. Your trucks also distribute to your own shops?

Mr. JOHNSON. Yes.

Dr. HOWE. Now we have discussed what you paid the farmer. What are your actual pasteurization-plant costs?

Mr. JOHNSON. At the present time slightly less than half a cent a quart.

Dr. HOWE. Half a cent a quart for receiving the milk, heating it, cooling it, and putting it in bottles.

Mr. JOHNSON. And loading it on the trucks.

Dr. HOWE. And your shop costs are how much per quart?

Mr. JOHNSON. Pardon me just a moment. My memory seems to be failing me. My lowest shop costs are half a cent.

Dr. HOWE. That is, the shops through which you distribute the milk.

Mr. JOHNSON. That is the lowest cost, for the largest shop, and the average is 1.1 cents per quart.

Dr. HOWE. That depends on how much you distribute?

Mr. JOHNSON. The average is 1.1 cents.

Dr. HOWE. If you distribute 1,000 quarts over each counter, what would it probably be?

Mr. JOHNSON. It would probably be half a cent.

Dr. HOWE. You think, then, that you can distribute fluid milk over the counter at a cost of half a cent a quart?

Mr. JOHNSON. Mr. Howe, at the present time in Detroit milk is being delivered to the homes at the same price that I am selling out of my depots and it is being sold all around me at prices lower than mine, so people are paying me in many cases more for milk than they could buy it for from other dealers. But they are afraid if I should go out of the picture they would have to pay the old price of milk, so that has run my costs up. But if the proper differential was made between the depot price and the retail delivered-to-the-house price, my costs would probably be less than half a cent a quart.

Mr. BERGE. Do you mean to say that dealers who perform delivery service are now meeting your price and are delivering milk to the door at the same price you sell it over the counter?

Mr. JOHNSON. Yes, sir.

Mr. DAVIS. Mr. Johnson, are the herds and the dairies from which you get your milk and the milk you deliver to consumers subject to the same health conditions as are the other distributors' milk they handle?

Mr. JOHNSON. I think I get more.

Mr. DAVIS. The same regulation?

Mr. JOHNSON. I get more inspection than the others.

Dr. HOWE. Why do you get more inspection?

Mr. JOHNSON. I had a talk with the health officer and I told him I wanted plenty of inspection; I didn't want any criticism of my product. He agreed with me that it would probably be criticized and be watched very carefully, and he said he would lean over backwards to see I got good inspection, and I asked for that.

Dr. HOWE. Why was this price cutting going on of other shops and house-to-house delivery. Was it an attempt to put you out of business?

Mr. JOHNSON. One is to demoralize the market and to bring out a milk-control bill. They are asking the Legislature of Michigan to pass the milk-control bill, and they hope by demoralizing the market they can get a demand for the milk-control bill; and the other is to put me out of business.

Acting Chairman KING. Who is seeking municipal control—

Mr. JOHNSON (interposing). State control.

Acting Chairman KING. The farmers or the distributors, or whom?

Mr. JOHNSON. The individual farmers are against it. Mr. Beach—he is the manager and the director of the Michigan Milk Producers

Association—is asking for it and the distributors are asking for it. They are asking that the resale price be set.

Dr. HOWE. That is for house-to-house delivery?

Mr. JOHNSON. Resale price for house to house.

Dr. HOWE. They are trying to make that a fixed price by law?

Mr. JOHNSON. Fixed price by law; yes.

Acting Chairman KING. Only in milk that is delivered from house to house, or the entire product that comes to the city for distribution?

Mr. JOHNSON. Well, the talk among the dealers is that the price will be set only for house-to-house delivery and that I will the next day be out of business because the people won't pay me the same price when they have to go after the milk and pay a bottle deposit as for house to house.

Dr. HOWE. When did this price cut begin against your business?

Mr. JOHNSON. April 4, 1937.

Dr. HOWE. That price cutting, you think, was due to the fact that you were selling milk over the counter at a lower price than the house-delivery price.

Mr. JOHNSON. No; I think they woke up to something on that particular date. If you want me to explain it to you, I will.

Dr. HOWE. Yes.

Mr. JOHNSON. On April 1, 1937, milk was 12 cents a quart in Detroit. I was just getting started and my price was 8 cents per quart. At that time I had only one grade of milk; I sold milk exactly the way I got it from the farmer; whatever the test happened to be. I sold it for 8 cents per quart. The 1st day of April they raised the price to 13 cents per quart.

Dr. HOWE. House delivery?

Mr. JOHNSON. House delivery, and the people in Detroit went on a milk strike and refused to buy milk. My business jumped; it doubled overnight; but I couldn't get the milk, and my plant at that time was so small I couldn't handle any, so they immediately dropped their price. The 4th day of April, they dropped their price and have been dropping ever since. They have come out with phoney brands of milk. First, National Dairy put out a Longdale brand without their name or address on it and sold that at a lower price in competition; Borden Co. came out with Belle Isle, and another company came out with a milk called Senate milk. [Laughter.] They came out with an off brand.

Acting Chairman KING. Why not Senate milk? I understand they have a Senate beer. [Laughter.]

Mr. JOHNSON. Well, it was funny to me at least. They didn't want to destroy the old-established brands that they had spent money advertising, but they came out with another brand to meet the legal butter-fat content of milk. The milk inspector was very much opposed to it, I'll say that, and it was extralegal; it was not specifically mentioned in the ordinance that you could not come out with these phony brands, but they did do it.

Dr. HOWE. The price for the regular brand was still 12 and 13 cents a quart, wasn't it?

Mr. JOHNSON. Yes; for a short time.

Acting Chairman KING. What percentage of the milk sold in Detroit is sold by you, roughly; a rough estimate, if you have it?

Mr. JOHNSON. About 6 percent.

Acting Chairman KING. Only 6 percent?

Mr. JOHNSON. That's all.

Acting Chairman KING. Are there any other persons pursuing a like policy to that which you have described, against whom these corporations that were cutting prices were directing their efforts of destruction?

Mr. JOHNSON. Yes; there are three other companies that are using exactly the same method I am now; they have given up their retail routes and they are doing the same as I am doing—three other companies.

Acting Chairman KING. What would the aggregate amount of their sales be?

Mr. JOHNSON. I couldn't say that. I will say that in the milk depots there is probably 10 or 15 percent of the milk sold, exclusively milk shops. The grocery stores handle part of the milk, and all the chain stores.

Dr. THORP. Has this price reduction been generalized for the whole Detroit area or does it appear in the sections only where the shops are located?

Mr. JOHNSON. At first it was only in the sections where my shops are located, but it immediately spread over the whole city, so it covers the entire area of Detroit. If they try to hold the price up, if you insist on a lower price and say you are going to buy from a Johnson milk depot, they will give you a lower price.

Dr. HOWE. What have you discovered as to the popularity of store delivery?

Mr. JOHNSON. If it wasn't popular, I would have been out of business. It was the public and the popularity of my method that saved me.

Dr. HOWE. Do the people themselves say anything about it?

Mr. JOHNSON. Yes; every day.

Dr. HOWE. What do they say?

Mr. JOHNSON. Well, some people say "If it wasn't for you," well, put it this way, they say, "My budget only allows \$2 a week for milk and when I buy milk from you I have milk enough. Before, we didn't have enough." Another man told me that he has an electric refrigerator and he was about to lose it but the profit he saved on the milk paid for his electric refrigerator. By the way, that is one of the reasons these milk depots are popular, because of electric refrigeration; people can buy 2 or 3 days' supply of milk and keep it on hand. My milk is 2 or 3 days fresher than the other milk anyway.

Dr. HOWE. How is that? How is it fresher?

Mr. JOHNSON. The milk I sell today was milked last night and this morning and it is brought in, it will be coming in about this time—I hope; I have been away for 2 days. My milk is brought in directly from the country and to the pasteurization plant and bottled and goes to the milk depots, so practically all the milk I have has the third date of pasteurization on the bottle cap, whereas the other dealers' milk is hauled from Detroit out in the country to receiving stations where the tanks are filled up and held overnight and comes

in the next morning, then is pasteurized in the bottle and put in cold storage and sold the next day, so I am at least 24 to 48 hours fresher with my milk, and, of course, milk is very perishable and that is one reason for the popularity of my milk, because it has a better flavor.

Dr. HOWE. And do people say anything to you about preferring to get it at the shops instead of having it delivered at the doorsteps and their apartments?

Mr. JOHNSON. The reason I went into the milk depot business was because I knew the average person goes to the milk depots rather than having it delivered.

Dr. HOWE. How did you know that?

Mr. JOHNSON. I had a milk contract in Grand Rapids to supply the public welfare department with milk; I had refrigerators in car barns and engine houses and had some of my own milk depots, and there was a man named Leon C. Collier, who was under the A. A. A. milk administrator, and Mr. Leon C. Collier was formerly an employee of the National Dairy, and he insisted upon milk being taken from his milk depots and put back on the wagons.

Dr. HOWE. That was in Detroit?

Mr. JOHNSON. That was in Detroit:

Dr. HOWE. Or in Grand Rapids?

Mr. JOHNSON. In Grand Rapids. I thought I was going to lose the business because I thought at that time, in fact I never did know, I have been trying to find out for a long time whether people preferred to go and get their milk from the milk depots or whether they would rather have it delivered, but these people were on relief and that was 11,000 families. they got up petitions that they continue to be able to get their milk from these milk depots, they said they preferred it, it was fresher, it was always cold, they could get it when they wanted it, if they wanted to go fishing they could get a couple of quarts the day before; if they didn't want to get up in the morning they could take care of the milk. That pointed out to me that that was the way to handle fresh milk. I never did know until that time.

Dr. HOWE. Do people in Detroit say the same thing to you, that they don't want it delivered at the doorstep?

Mr. JOHNSON. They don't want it delivered at the doorstep.

Dr. HOWE. Why?

Mr. JOHNSON. In the first place, there is a natural antipathy toward a milk wagon in the streets in the morning. [Laughter.] There always has been.

This may sound funny, but I am dealing directly with the public so these are just parts of my troubles that I have to hear. I have been in the retail milk business and we had to have rubber shoes on the horses and rubber shoes on the men, and the rattling of bottles, and I don't know why it is, but they don't like to have a milkman calling at the door early in the morning. They may feel nervous; and another thing, they have to pay for the milk by the week or by the month, and when the man presents his bill they just don't like that bill.

Another reason is that they never see the milkman; they can't get what they want or when they want it, and people are only working 3

or 4 or 5 days a week and so they spend as much time as they can, I presume, at their cottages in the country or with farmer friends, and anyway they prefer to go and get their milk.

Sometimes I think it is just an excuse to use the automobile, but it doesn't make any difference; they go out and shop at any rate. In Detroit there are two or three other cash-and-carry firms that do a tremendous business. One is the Sander's Dry Cleaning Plant; another is the Saunder's Confectionery.

Dr. HOWE. Is it not true that the bacteria count rises when milk remains out on the doorstep?

Mr. JOHNSON. Very quickly. Milk is the most perishable thing, and loses its flavor more quickly than anything.

Dr. HOWE. Even if it is pasteurized?

Mr. JOHNSON. That is true. I can tell by looking at it that it is 2 or 3 days old, even though it is still sweet.

Dr. HOWE. Tell me, are you able to make money on this basis?

Mr. JOHNSON. Yes.

Dr. HOWE. I don't want to divulge the details of your private conversations with me, but I think you told me that you were making 35 percent selling milk for 6, 7, and 8 cents. Is that correct?

Mr. JOHNSON. That would be the gross profit. I couldn't—I handle my business different from anybody else. I am alone.

Acting Chairman KING. You don't have a large, expensive bureaucracy that you have to handle?

Mr. JOHNSON. No, sir. A long time ago I kind of soured on efficiency experts and foremen and that sort of thing. I found out that foremen and superintendents gave me more trouble than my employees, so I have no foremen, no salesmen; but I pay my men a little better wages than I would have to pay out to foremen. What I would have to pay out to foremen I pay my employees direct and I find I get better results.

Mr. BERGE. How many employees do you have?

Mr. JOHNSON. I have all together about 150, about that.

Dr. HOWE. Is there any reason why the handling of milk cannot be done through plants of your size just as well as through plants that handle a million quarts a day?

Mr. JOHNSON. If I had a million quarts I would do it for less.

Dr. HOWE. But there is no reason why small plants like yours, if they are free from oppression, cannot distribute milk economically as you are doing.

Mr. JOHNSON. No reason at all.

Dr. HOWE. It isn't necessary for it to be a large capitalized industry?

Mr. JOHNSON. Not at all.

Acting Chairman KING. I would like to inquire what kind of plants you have distributing from the city. Do you have to buy buildings or rent rooms? In what manner do you acquire plants?

Mr. JOHNSON. I rent a store on good streets. I try to rent as small and cheap a store as I can, but I don't get on any back streets or poor streets. I rent good buildings because I try to keep the character of my place just as high as possible. I put in quite expensive fixtures and expensive paint. I have good help. Most of my girls—a lot of the girls all have to be high-school graduates and grade A

students, a lot of them. I insist that my standards be very high. I won't hire a girl that smokes.

Dr. HOWE. I would like to begin on another series of questions, Mr. JOHNSON. What difficulties or obstacles have you had in Detroit beginning with the opening of your plant in 1936 from either agencies of the government, city or otherwise, to make it difficult for you to enter this business?

Mr. JOHNSON. Can I be arrested for contempt of court?

I caught a large milk company in Detroit predating its milk, and I complained to the board of health about that and I will never do that again because I had at least six inspectors to go through my plant. So if you criticize a public officer, it certainly is very poor policy.

Dr. HOWE. What happened to you when you were starting your business? Were there any obstacles thrown in your way either by the milk association, the other distributors, or by the city itself?

Mr. JOHNSON. Do you want to know a few of them?

Dr. HOWE. Yes; as many as you want to tell.

Mr. JOHNSON. To begin with, I started in the city of Hamtramck, which is entirely surrounded by Detroit. Hamtramck is industrial and the milk business is industrial because we have to work nights and make a lot of noise and clatter, and that is the reason I located in Hamtramck. I bought my milk from the Hastings Milk Products Co.—my raw milk supply—at Hastings, Mich. They were licensed by the State of Michigan. The second or third day afterward the city of Hamtramck revoked my milk license because I didn't buy from the Michigan Milk Producers Association.

Dr. HOWE. What is that?

Mr. JOHNSON. That is supposed to be a cooperative. They control 85 percent of the milk in the city of Detroit.

Dr. HOWE. A farmers' cooperative?

Mr. JOHNSON. A farmers' cooperative.

Dr. HOWE. Go on.

Mr. JOHNSON. So I told them where I was going to buy my milk in the first place. The inspector said, "That doesn't make any difference; we will just revoke your license."

I said, "I am entitled to a public hearing, am I not?"

He didn't know, so I went and got a lawyer—2 lawyers and, by the way, at the present time there are 3 firms of lawyers camping on my trail all the time; my opposition has 12 lawyers watching me every day, taking photostatic copies of everything that I do, every move that I make, if there are any documents placed on file.

That is the present thing. The last thing before I left Detroit, I had 25 complaints—

I guess I will go back. Anyway, my license was revoked and I got a lawyer and he asked for a public hearing before the committee of the Hamtramck council, and we went up and had a public hearing and two of them voted to revoke the license and two of the councilmen voted that I should have a license, and the fifth man asked the public—the place was just packed, there wasn't standing room, with people who were listening there—and he said, "How many people use Johnson milk?" and they said, "We all do." That wasn't true, but there was a small-sized riot, and the president of the council voted for me, so I got my license.

Acting Chairman KING. Was the only charge against you on which they based the revocation of your license, that you didn't buy direct from the farmers?

Mr. JOHNSON. No; from the Michigan Milk Producers' Association.¹ That was the word of the inspector. He really got rough and he was so quarrelsome they didn't dare go on.

I got my license, I agreed to buy direct from the farmers and come under Detroit inspection as soon as I could, and so I got a license to sell milk.

Two or three days later a man came in. I have had experience in the milk business and know what to look for. I have been in the milk business all my life. I have sold milk to stores, restaurants, retail. I have done everything in the milk business, every part of it. That is all I do know. The next day a man by the name of Moore—2 or 3 days later—came in, who stated he was city inspector, and I said, "Employee of the State of Michigan?"

"Yes."

I said, "Who is the other man?"

"He is Mr. Hoffman, inspector for the bottle exchange."

I said, "Mr. Hoffman, have you got a star?"

He said, "No."

"Outside." He didn't go and I chased him out.

So Mr. Moore stayed in my place of business 3 days, an employee of the State of Michigan, and took cans away that had "Borden's" stamped on them, or National Dairy, or Detroit Creamery. These cans supposedly belonged to the farmers, they were not my cans, and the farmers were shipping milk direct. Finally at the end of 3 days I told Mr. Moore I was tired seeing him around there and I figured he should do some inspection other places than in Detroit. So I called up the State Capitol at Lansing and asked by what authority he was in there taking the cans away from the farmers. Some of them had rust spots, were cracked, and so forth.

They called the fellow to the telephone, and he disappeared and I didn't see him any more.

Then I had telephone calls that my place would be bombed, and I said, "Tell me which one you are going to bomb. I don't care; there is no law against it; if you are going to bomb it, I can't stop you; but why not tell me which one?" After that they hung up.

It ran along, all sorts of things; little, minor instances occurred; every day it would be this or that or something else; and they started what they called economy milk, used Borden's bottles and Detroit Creamery bottles and all the other dealers' bottles, used everybody's cases, and they sold milk for 6 cents a quart or 7 cents a quart, whichever price they could get. So I complained to the State again, and they came down and made this man get his own bottles, and for a few days he used plain bottles. He was buying milk, supposedly, from the Detroit Creamery, a small company; and then he disappeared. They found he was hurting the market more than he was harming me.

Of course, when I came into Detroit I analyzed the situation this way: That I figured out about what I could sell my milk for, figured the price I would pay the farmers, how much my profit would be, and

¹ Testimony of Mr. Bernie Beach, Secretary-Manager, Michigan Milk Producers Association begins on p. 2884, infra.

talked it over with the board of health, and he saw my way. He could see where there would be a good profit in it for me.

Anyway, the only way that I figured that the other companies could meet me would be to beat my price; and if they drove the price of milk in Detroit down to my price, it would amount to \$24,000 a day. There are 600,000 quarts a day used in Detroit; and if they dropped 4 cents to meet my price—and I knew that was the only way they could hold their customers—it would cost them \$24,000 a day; and I didn't think they would do that.

Dr. HOWE. It would cost the distributors?

Mr. JOHNSON. It would cost the distributors \$24,000 a day.

Senator KING. To meet your price.

Mr. JOHNSON. To meet my price, because people actually preferred to pay the same price at my milk depots as the milk is delivered for at the homes. Now, since I am selling 4-percent milk, they can't take the business away from me. If a customer quits me for any one reason and they have to get the 3- or 3½-percent milk, they come back and say they prefer the 4-percent milk.

Dr. HOWE. What help did the district attorney give you?

Mr. JOHNSON. I think he gave me a great deal of help. When I first had my license in Hamtramck they seemed reluctant to give me a license in Detroit. I went down to see the assistant district attorney, Asher Cornelius. He came to the plant and said: "Why don't you have a license?" I said there seemed to be some objection to giving me one. He told me to start in business without a license, and if I was arrested, he would see to it that I received justice, so that afternoon I went down to apply for a license, and I got it. Prior to this time, shortly before I came into the picture in Detroit, there had been a lot of bombings.

Dr. HOWE. Bombings of what?

Mr. JOHNSON. Bombings of milk plants, so I was told by my attorney that Duncan C. McCrea called in the Borden Co. and the National Dairy, Ebling Dairy, and Detroit Creamery, and he said, "If we have one more bombing in this town I am going to send an officer out and bring you in."

They said, "We have nothing to do with this."

He said, "If there is one more bombing, we will put you behind the bars, and from that point we will investigate." And so that stopped the bombings in Detroit.

Dr. HOWE. Was that bombing related to pasteurization plants or to stores?

Mr. JOHNSON. Pasteurization plants. There were no depots or stores before I came to Detroit.

Dr. HOWE. These were other independents who are not inside the combination?

Mr. JOHNSON. I suppose; I wasn't in Detroit.

Dr. HOWE. Did you have any other conferences with the district attorney with respect to your protection?

Mr. JOHNSON. There might have been a few telephone calls back and forth.

Dr. HOWE. But he has given you assurance that the district attorney's office would give you all the protection that any other businessman enjoys?

Mr. JOHNSON. He wrote me a letter to that effect.

Dr. HOWE. Now, will you go back to Grand Rapids a minute?

Acting Chairman KING. May I ask one question? Did the district attorney or the law-enforcing agencies of the city take cognizance of these bombings and of the efforts which were made, from your statement, to interfere with your business, and arraign any of them before the courts?

Mr. JOHNSON. No; they didn't. All that sort of thing just ceased at once; after Mr. Duncan C. McCrea's conference with these-milk companies, it stopped. But that was prior to my coming into Detroit, shortly, within a month or 2 or 6 months before I came.

Acting Chairman KING. You referred to a number of incidents, some of which you call minor, which have interfered with your business, which would indicate, from your statement, a sort of conspiracy upon the part of some persons to drive you out of business.

Mr. JOHNSON. There is a real conspiracy. We haven't got to that yet. The real conspiracy is this: The largest glass company in the United States paid one man \$1,900 to sign a petition of bankruptcy against me. I would call that a conspiracy. At least I feel that way.

Acting Chairman KING. Did he sign the petition?

Mr. JOHNSON. He signed the petition; yes, sir; and at the present time there are three firms of lawyers watching every move I make, and two of them are attorneys for the Producers' Association and they call in other attorneys. There are so many of them there is no way of pinning it on one single one.

Acting Chairman KING. It is the Milk Producers' Association you refer to?

Mr. JOHNSON. Yes, sir.

Acting Chairman KING. So that some of the farmers, then, are in this conspiracy, if there is a conspiracy?

Mr. JOHNSON. The manager, not the farmer himself, because all the milk I get is directly from members of the association.

Acting Chairman KING. Would they not be responsible for the acts of their manager, or would they not be taking cognizance of his acts?

Mr. JOHNSON. They know about it; yes, they do.

Acting Chairman KING. Have they protested against the apparent injustices to which you are being subjected by various milk distributors?

Mr. JOHNSON. Yes; these meetings are being held at the present time, and I have no trouble in getting milk. I get all the milk I want. The fact of the matter is, I would say that practically every farmer shipping milk into Detroit wants to sell milk to me.

Dr. HOWE. That is because they know what they are going to get at the start?

Mr. JOHNSON. They know exactly what they are going to get for the milk. Then, I have been in business in Michigan now for about 17 years, and no farmer has had any cause for complaint for 17 years.

Dr. HOWE. You buy milk at a flat price rather than a grade price?

Mr. JOHNSON. Yes, sir.

Mr. BERGE. Are these farmers violating the terms of their cooperative membership when they sell to you?

Mr. JOHNSON. Yes.

Mr. BERGE. Many cooperatives, I think, do permit a certain amount of the product of the farmer to be sold to nonmembers.

Mr. JOHNSON. I tried to buy milk from the cooperative on the same basis as the other dealers and they refused to sell it to me. I tried many times, and they refused to sell me milk, even when I offered to pay cash on delivery.

Mr. BERGE. Are any efforts made to discipline farmers who sell to you?

Mr. JOHNSON. No; this particular manager of the cooperative is afraid to be seen alone in the country. He is very unpopular.

Acting Chairman KING. Why do they permit him to be their manager, if he resorts to these practices?

Mr. JOHNSON. Well, it is a peculiar situation. He is elected by directors, and the directors or officers—there are 21 directors and they elect some sort of committee and he is appointed by this committee. They can't get rid of him. There are so many conflicting interests that it is hard to do anything.

Dr. HOWE. McCrea is State district attorney, rather than Federal district attorney, is he not?

Mr. JOHNSON. He is prosecuting attorney of Wayne County.¹

Dr. HOWE. You started to tell the story about the difficulty in getting bottles, or something like that. You have to have bottles for selling milk. Who was the company that you were buying your bottles from?

Mr. JOHNSON. The Owens-Illinois Glass Co.

Acting Chairman KING. Is that the company that made the effort to prevent you from getting bottles?

Mr. JOHNSON. No; they sold me the bottles. They delivered two carloads of bottles not ordered. Then their employee, Verne Harris, paid their agent \$1,900, presumably to sign a petition in bankruptcy against me. This is when I was building a new dairy. It is quite a long story.

Mr. DAVIS. Mr. Johnson, have you had any difficulty in buying bottles?

Mr. JOHNSON. No, because I had my bottles on hand when I started in. I didn't need any bottles. I had another company and didn't need to buy any bottles, but two of the largest companies selling me dairy machinery refused to sell me dairy equipment.

Dr. HOWE. In other words, you couldn't get people to build a plant for you. You couldn't buy equipment for it? How did you get your plant built, then?

Mr. JOHNSON. I shopped around until I got a man that would. These two companies, one the Creamery Package Manufacturing Co., and the other the Cherry Burrell Corporation, refused to sell me. I suppose they hoped to get some big orders from the big companies or the combine; but they didn't get them.

Mr. DAVIS. What excuse did they give for not selling, if any?

Mr. JOHNSON. They didn't give me any. They delayed it and delayed it and didn't show up. I had dealt with them for a good many years prior to this. They felt a little bit ashamed of themselves too.

Dr. HOWE. Did you complete the milk-bottle story, Mr. Johnson—everything that happened in connection with the Owens Glass Co.?

Mr. JOHNSON. No. In that case they tried to throw me into bankruptcy.

¹ An affidavit of milk marketing conditions in the Detroit area, later submitted to the Federal Trade Commission by Mr. McCrea, is included in "Exhibit No. 370-A," appendix, p. 3194 at p. 3225.

Dr. HOWE. How did they do that?

Mr. JOHNSON. I owed one man \$12 past due on this glass account, and I owed another farmer who claimed he had some money coming. Altogether it made \$500 that I owed three people, and they asked that a receiver be appointed.

When that was done, everything I owed came due, and it caused lots of trouble. Finally Judge Ernest O'Brien decided I was not bankrupt and asked that I pay the money for the bottles, and I did, and they didn't collect it, and they appealed the case and told me it would take 10 years before it would be settled, and it is still in the court of appeals at Cincinnati, notwithstanding that I am fluid, or whatever you call it when a man is not bankrupt.

Acting Chairman KING. Does the record show that the Owens Glass Co. initiated those proceedings against you?

Mr. JOHNSON. No; not the public records, but the private records of the bank show it. They have a record of the check. One attorney I know has a record of the check and the whole proceedings, the time, the name, the amount, everything.

Acting Chairman KING. I might add that that organization, that company, has been before this committee.¹ I am sorry we didn't have that information when one of the Owens Co. was on the stand. We would have asked for an explanation from him. Proceed.

Dr. HOWE. How did they get these claims against you, Mr. Johnson, in order to attempt to throw you into bankruptcy?

Mr. JOHNSON. They tried to buy claims. Mr. Sullivan, attorney, offered a man a thousand dollars for a claim. Burger & Sullivan are attorneys for the milk dealers of Detroit, and he happened to offer a personal friend of mine, that I had done business with a long time, \$1,000 for money that I owed him. That was the Johnson Boiler Works of Ferrysberg, Mich.

Dr. HOWE. How much was the amount?

Mr. JOHNSON. I forget just the amount. It was about a thousand-dollar claim.

Then they solicited all my farmers. There were as high as 15 men out in the country going from farm to farm soliciting my farmers. This farmer that signed the petition in bankruptcy got a letter that read, "Enclosed please find \$100 as per instructions from Mr. Beach, of the Milk Producers Association." Afterward they claimed this \$100 that he was paid was an advance on money that he was to get for milk that he sold afterward.

Acting Chairman KING. Is a representative of the Department of Justice here?

Mr. FERGUSON. Mr. Berge.

Acting Chairman KING. I take the responsibility, speaking for myself only. I think that this situation ought to call for an investigation of the proceedings there by the Department of Justice to see whether or not the Federal statutes have been violated, and if they have, to initiate necessary prosecution. Proceed.

Mr. BERGE. I accept your suggestion, Senator King, and we will be glad to look into it.

Dr. HOWE. What were your attorney costs in connection with these proceedings?

¹ Hearings, Part II, p. 474 et seq.

Mr. JOHNSON. I paid him the first year \$5,000. He is now suing me for \$22,000.

By the way, the attorneys, Benjamin, Lieb, and Berris who are attorneys for Burger & Sullivan, who are attorneys for the Detroit dealers, said if I paid them \$750 they would drop this appeal against me.

Acting Chairman KING. I think perhaps the bar association ought to make some investigation of the conduct of the lawyers.

Dr. HOWE. Let's go back to Grand Rapids, where you were dealing with the relief association there. If I remember correctly, you had a contract with the local relief association to provide people on relief with milk. Is that correct?

Mr. JOHNSON. That is right.

Dr. HOWE. You had your own pasteurization plant there?

Mr. JOHNSON. Yes, sir.

Dr. HOWE. And you entered into a contract there to buy milk, pasteurize it, and distribute it to milk depots for distribution to the people on relief. Is that correct?

Mr. JOHNSON. That's right.

Dr. HOWE. When did you enter into that contract?

Mr. JOHNSON. About 1932 or 1931.

Dr. HOWE. And how long did you continue to supply relief milk in Grand Rapids?

Mr. JOHNSON. Until 1935.

Dr. HOWE. At what price did you deliver milk to the shops where it was distributed under that contract?

Mr. JOHNSON. As low as 3.7 cents per quart.

Dr. HOWE. And what was the highest price that you charged the relief administration?

Mr. JOHNSON. I think it was 5.2.

Dr. HOWE. Then the milk at these shops was distributed by whom?

Mr. JOHNSON. By people on relief.

Dr. HOWE. How many shops were there in Grand Rapids?

Mr. JOHNSON. Thirty-one.

Dr. HOWE. That went on for how many years; did you say?

Mr. JOHNSON. About 3 years; 3 or 4 years, something like that.

Dr. HOWE. Was there a large volume of milk that reached the relief consumers under that arrangement?

Mr. JOHNSON. Yes; at one time they had a man that figured out how many calories of food a man or child should have a day and said they were going to compel them to take so many calories in 1 quart of milk. It amounted to quite a little bit. Then they deducted those calories from other stuff on relief that he was supposed to get.

Dr. HOWE. And milk was therefore a primary diet of children and people on relief at this period?

Mr. JOHNSON. That is right.

Dr. HOWE. Do you know anything about what happened to the general health of children on relief and children in the schools?

Mr. JOHNSON. The health officer of the city of Grand Rapids told me all the undernourished children were in the so-called better-class districts and that there were no more underweight children in the open-air rooms. And he also told me this, which is quite interesting to me, that when the children or the people on relief had all the milk

they wanted, their saving in doctors' bills amounted to the cost of the milk.

Dr. HOWE. In other words, the milk didn't cost anything.

Mr. JOHNSON. That is right. I don't know how that was, unless the doctors charged a lot.

Dr. HOWE. The saving in one case was equal to the cost in another. Is that correct?

Mr. JOHNSON. Yes.

Dr. HOWE. Was this milk in Grand Rapids pasteurized?

Mr. JOHNSON. Yes.

Dr. HOWE. Pasteurized at your plant?

Mr. JOHNSON. Yes.

Dr. HOWE. You did all the trucking?

Mr. JOHNSON. Yes.

Acting Chairman KING. The witness wants to make an explanation.

STATIC PROFIT TO DISTRIBUTOR IN FLUID MILK INDUSTRY

Mr. JOHNSON. I want to make one explanation on the low-price milk. When I took the relief contract it was always contingent on what I paid the producer; that if the price went up to the producer, my price advanced that equal amount to the relief administration. I insisted on that because I didn't want it to be said that I broke down the farmers' market because at that time I had the idea even then of developing these milk depots and trying to sell to the public. I tried to sell to the public at that time, but I was stopped.

Dr. HOWE. You were stopped?

Mr. JOHNSON. Yes.

Dr. HOWE. But you insisted yourself that the price that should be paid to the farmer should be fixed by the public authorities. Is that correct?

Mr. JOHNSON. No, no; the price that I got for my milk should be governed by what I paid to the farmer. On the other hand, I told the farmer, "You can go ahead and get yourself some more money, because I can collect it automatically from the relief administration." But if the farmer had asked for a cent a quart more it still would have been the lowest priced milk in the United States, wouldn't it?

That would have been a tremendous increase. I was trying to build up the farmers' market because I am not interested so much in what I pay for milk.

Dr. THORP. May I ask one question? Does that mean that in general in the milk business the price that is paid to the farmer affects the total price but doesn't affect necessarily your processing or distribution costs? In other words, if you paid the farmer more you yourself wouldn't need to get more for your part of the price?

Mr. JOHNSON. Not at all, it doesn't make any difference; it makes no difference to me at all.

Mr. BALLINGER. That is assuming a large spread in the market makes no difference.

Mr. JOHNSON. I mean, my costs are stationary; my costs of pasteurization and my help, regardless of what I pay—3, 4, 5, or 6 cents a quart for milk.

Dr. HOWE. Just to interject a question there. You said that your plant costs in Detroit were $4\frac{1}{2}$ mills a quart. Suppose you were handling and pasteurizing, instead of 40,000 quarts a day, 100,000 quarts of milk a day. What would your plant cost be?

Mr. JOHNSON. I couldn't say, but it would be somewhat less. The cost of handling a quart of milk today in a milk plant is less than it ever has been. The machinery is so improved and so perfect and so good today that you can handle a quart of milk for a great deal less than you could a few years ago. The same way with pasteurized milk; your costs in the plant are a great deal less than they were a few years ago.

Dr. HOWE. In an efficient plant, would you say that milk can be received, pasteurized, and bottled for $4\frac{1}{2}$ mills a quart?

Mr. JOHNSON. Yes.

Dr. HOWE. In an efficient plant, should it ever be three-quarters of a cent a quart?

Mr. JOHNSON. I wouldn't want to say about other people's business, I don't know, but my costs in my plant for a period of a good many years, 10 or 15, haven't been over a half a cent. My business is just getting to the point now where it is getting along; it has been developing.

Dr. HOWE. You can take raw milk on one side and put it down on the other side of your plant for half a cent a quart without the cost of the bottle?

Mr. JOHNSON. That is exclusive, of course, of the distribution cost.

Dr. HOWE. Yes, sure; exclusive of your stores; but as a manufacturing proposition you can manufacture milk under your pasteurization or health ordinance for a half a cent a quart.

Mr. JOHNSON. That is in volume.

Acting Chairman KING. Has your business increased in the past 2 or 3 years during the periods of depression, and expansion, if there has been any?

Mr. JOHNSON. I started 3 years ago, in 1936, with no business at all, and I am the fourth largest in Detroit today. Of course, that is due to the public liking my milk.

Acting Chairman KING. I would like to ask one question. What is the usual delivered price per quart in Detroit, in the city of Detroit?

Mr. JOHNSON. Prior to my coming to Detroit it was 12 cents.

Acting Chairman KING. What is it now?

Mr. JOHNSON. There is no price now. It is any price they can get. The market is very much demoralized, as they call it.

Acting Chairman KING. What do you get?

Mr. JOHNSON. I sell 3-percent milk for 6 cents a quart, $3\frac{1}{2}$ for 7 cents a quart, and 4-percent milk for 8 cents a quart. I probably sell 20 quarts of the 4 percent to 1 of the lower test. People prefer the 4-percent milk.

Mr. DAVIS. Mr. Johnson, your differing percentages, 3, $3\frac{1}{2}$, and 4 percent, merely refer to the butterfat content, do they not?

Mr. JOHNSON. That is right.

Dr. HOWE. What is the prevailing butterfat prescribed by the health ordinance?

Mr. JOHNSON. In the city of Detroit it is 3 percent and I have it 3.5 in competition because the cities of Dearborn, Highland Park, Hamtramck, Burndale, and Birmingham, suburbs of Detroit, have 3.5. Otherwise I would just have 3 percent and 4 percent.

Dr. HOWE. So you sell 3-percent milk, which is required by ordinance?

Mr. JOHNSON. That is right.

Dr. HOWE. For 6 cents a quart.

Mr. JOHNSON. Yes.

Dr. HOWE. And then you ask your customers to pay for luxury milk, which is 3.5 butterfat and 4 percent.

Mr. JOHNSON. That is the minimum in these several towns.

Dr. HOWE. Oh, yes.

Mr. JOHNSON. But they prefer the 4 percent milk.

Dr. HOWE. That gives them more cream.

Mr. JOHNSON. Yes.

Dr. HOWE. To go back to Grand Rapids, did you have any trouble there under this health contract or relief contract for selling milk the way you were selling it? Did you have any trouble there like the Detroit troubles?

Mr. JOHNSON. It was the same thing; only in Detroit the board of health was honest and I don't think they were in Grand Rapids. I had bacteria counts of 1,000,000 in Grand Rapids and I hired a chemist, unbeknown to the Board of Health of Grand Rapids, and I had to pay him \$100 a month to test my milk every day for bacteria, and it dropped down to 2,500 or 3,000, so we weren't on very friendly relations. Every time I saw them I told them about it. Then many times I attempted to sell milk from the depots to the public, the same as I did on relief, and Mr. Beach of the Michigan Milk Producers' Association said if I would do that he would call a strike. Finally I did it and he did call a strike and took all my milk away from me. I just got this relief contract and I had put up a \$10,000 penal bond for observation of the contract, and I was afraid I would lose that, so I had to sign an agreement with the milk dealers of the city of Grand Rapids that I would abide by all the rules and regulations of the Grand Rapids Milk Dealers' Association, then I could have my milk back.

Dr. HOWE. Was there an association of distributors in Grand Rapids?

Mr. JOHNSON. Yes.

Dr. HOWE. Made up of whom?

Mr. JOHNSON. All the distributors.

Dr. HOWE. Who were they?

Mr. JOHNSON. Well, all of them, 65 distributors.

Dr. HOWE. Were National Dairy or Borden in Grand Rapids?

Mr. JOHNSON. Yes. Grand Rapids Creamery Co. is a subsidiary of National Dairy Corp.?

Dr. HOWE. Is Borden in Grand Rapids?

Mr. JOHNSON. No.

Dr. HOWE. Are those two large companies represented in Michigan in other cities than Grand Rapids and Detroit?

Mr. JOHNSON. Well, in Lansing and Detroit; and, of course, they have manufacturing plants in various cities.

Dr. HOWE. Do you know whether they distribute elsewhere than in those three cities?

Mr. JOHNSON. No; I don't.

Dr. HOWE. Is that the only trouble you had in Grand Rapids in carrying out your contract?

Mr. JOHNSON. That was all. Well, they took it away from me two or three times and impeached the city manager, and all that sort of thing. I found my bottles tampered with and destroyed; those are minor things; we expect that in the milk business.

Dr. HOWE. What was the price that the relief administration is now paying in Grand Rapids?

Mr. JOHNSON. I don't know, but it was taken out of my depots and put on the wagons in Grand Rapids, I suppose, at about the same price. I am not familiar with Grand Rapids any more.

Dr. HOWE. So the relief administration raised the relief burden by shifting from your method of distribution to wagon distribution.

Mr. JOHNSON. Yes.

Acting Chairman KING. Is that relief agency there now in charge?

Mr. JOHNSON. No; they have all been changed around. But that was more due to Leon C. Collier, the milk administrator. They claimed it was un-American to have these milk depots. One relief client said that all he had to put his milk in was a hole in the ground and he would prefer to get his milk from my depots where there was ice and electric refrigeration.

Dr. HOWE. Did the relief people in Grand Rapids object to getting their own milk at your shops?

Mr. JOHNSON. Not at all; they were for it; they like it because it was so favorable. The actual people who had charge of relief wanted it that way, but it was taken away from them over their heads.

Dr. HOWE. Did children call for it, or mothers, or working men when they came and went to their work?

Mr. JOHNSON. Everybody. I will say most of the people who drove automobiles would come in and get it.

Dr. HOWE. That is in Detroit.

Mr. JOHNSON. Yes.

Dr. HOWE. But not in Grand Rapids.

Mr. JOHNSON. Not in Grand Rapids.

Dr. HOWE. What did you distribute per day in Grand Rapids?

Mr. JOHNSON. At one time for a short period it varied from 7,000 to 20,000 quarts a day.

Dr. HOWE. Seven to twenty thousand?

Mr. JOHNSON. Yes.

Mr. O'CONNELL. When you refer to relief agencies in Grand Rapids are you referring to a State or local relief agency, or Federal agency?

Mr. JOHNSON. It would be all under the hands of the State at that time.

Mr. O'CONNELL. State home relief, so to speak.

Mr. JOHNSON. Yes. The State took it over from the city. In 1932 the city finances broke down, they didn't have any money, and the State took it over.

Mr. O'CONNELL. Coming to your business in Detroit, do you operate through a corporation or as an individual doing business under the name of the Johnson Co.?

Mr. JOHNSON. As an individual.

Mr. O'CONNELL. Can you tell us in a general way what the amount of your investment in Detroit is?

Mr. JOHNSON. Well, I probably have \$150,000 in equipment.

Acting Chairman KING. I wanted to ask one further question. How many farmers' associations do you buy milk from?

Mr. JOHNSON. I buy milk from about 700 producers and they all were formerly members of the Michigan Milk Producers Association. You see, the Michigan Milk Producers Association controlled 95 percent of the milk coming into Detroit.

Acting Chairman KING. Then you had to deal only with the milk-producers of one organization.

Mr. JOHNSON. Yes; but not with the organization.

Acting Chairman KING. I think I asked this question before, but I want to get it more firmly in my mind. Did the farmers from whom you were buying milk know of the treatment to which you had been subjected as you have indicated, by the various distributors or companies?

Mr. JOHNSON. Yes; they do. They are still being worked on. They keep men out there constantly telling them they have to do this and that; they keep somebody on the road all the time calling on my farmers, knocking me. They have meetings at least once a week knocking me. In the words of Mr. Beach of the Michigan Milk Producers Association, "If we don't get rid of Johnson, it is just too damned bad for us."

Acting Chairman KING. What is his name?

Mr. JOHNSON. Beach; Bernie Beach.

The thing that nobody knew but me at the time I came to Detroit was public preference. I don't believe the other dealers yet believe the public prefer to buy milk from depots, but a large percentage of people actually prefer to buy their milk at the depots regardless of the cost.

COSTS OF HOUSE-TO-HOUSE DELIVERY SERVICE

Mr. BERGE. Along that line, no doubt there are some people who still prefer delivery service. Have you any idea how much more it would cost to institute a delivery service or how much more you would have to charge if you were to go into that type of distribution?

Mr. JOHNSON. I would have to charge about the same as the other dealers.

Mr. BERGE. You mean what they are charging now in meeting your competition? Is that what you mean?

Mr. JOHNSON. Yes.

Mr. BERGE. Except possibly some of them may be selling temporarily below cost.

Mr. JOHNSON. Yes; they are temporarily below cost.

Mr. BERGE. You would have to raise your price some, I take it, in other words, to install that service.

Mr. JOHNSON. Yes; but I have no intention of doing it, and the people don't want that service.

Mr. BERGE. I know that. What I wanted to get at was on the basis of your experience what you would think milk could be reasonably sold at in a house-to-house delivery on a free competitive basis. I thought your opinion as an expert in the milk business would be

worth something as to how much additional you would have to charge if you were to go into that business.

Mr. JOHNSON. Well, if you were in a block where there were only 7 milk dealers you wouldn't have to charge as you do in one block in Detroit where there are 58 dealers delivering milk. There have been a lot of evils spring up in the milk business in the last few years; they haven't taken advantage of the modern methods of transportation. Where there was a saving they could pass on to the public they have tried to keep that for themselves, and things got top-heavy.

Mr. BERGE. Would you venture an opinion as to how much you would have to charge if you went into the delivery business?

Mr. JOHNSON. If the city would give me exclusive right to one section, it would be very little more than my price today. If I had to go out and compete with these other dealers today, if people didn't want to buy their milk that way—but I think it is passé; there is no need of trying to do something people don't want. The only reason I am getting along at all is because I am giving people what they want in the way they want it.

Mr. BERGE. But there are some people who prefer delivery service.

Mr. JOHNSON. Maybe the present price is too low, maybe the present price delivered is too low, and the price on the depots is too high. Perhaps a person who goes to my milk depot should buy his milk for 10 cents a quart less if you want that personal service to your home.

Mr. BERGE. Before you went into this business they were charging about 12 cents and they came down. I take it that if you went into the business you could do it somewhere between 7 and 12 cents and I thought you might have an opinion on it.

Acting Chairman KING. The cost of equipping a business for delivery is considerable, I assume.

Mr. JOHNSON. Yes; it is.

Acting Chairman KING. You would have to buy wagons and automobiles.

Mr. JOHNSON. Yes.

Acting Chairman KING. Is there such a large proportion of the cost of the milk to the ultimate consumer required just for the distribution to the house?

Mr. JOHNSON. Here is what has happened in the milk business. A milk route used to be delivered by the horse, 4 blocks one way, 4 blocks this way, 4 blocks back. When they went into the automobile distribution, when your driver leaves your plant he is out of your control. They take these trucks and drive them like touring cars and they might go over here to a restaurant and you can't say much about it because they will quit and take the route and go to some other company. Another thing is that there is credit. Where the routes used to be a few blocks long they have got up to be 50 miles long. So it is impossible. One route might cost you 2 cents to deliver and another might cost you 10.

Mr. BERGE. In any event, you wouldn't think it would require a 5-cent differential to get the milk around in house-to-house delivery, would you?

Mr. JOHNSON. Delivery costs in the city of Detroit are at least 5 cents.

Dr. THORP. Do I understand you to say that there was one block where there were 58 different distributors making delivery?

Mr. JOHNSON. This was in the paper. I don't know whether it is true or not. When I read it I figured it was probably a busy intersection where there happened to be three or four creameries. The duplication of service doesn't mean a thing.

Dr. THORP. I take it that your feeling would be that there could be decided economies if there were a more organized delivery procedure rather than this large number of smaller-scale operations.

Mr. JOHNSON. Yes.

Mr. DAVIS. Mr. Johnson, you make a remark in answer to the first question by Mr. Berge that it would cost very little more delivered anywhere nearby, but that it would cost more farther. Some of the milk distributors will deliver milk anywhere they get an order for it, no matter how great the distance, perhaps. If some system could be worked out as suggested by Dr. Thorp by which they could have depots for distribution and work out from those depots only within a reasonable distance of that particular depot, in other words, from the pasteurization plant, for instance, a large truck would take the milk to this and that and the other distribution plant and let the small delivery trucks operate out from there only a short distance away; if that were subdivided, wouldn't it make it much cheaper than to send it such long distances, you say sometimes 10 miles?

Mr. JOHNSON. Well, every time the legislature meets in Michigan these milk interests are trying to get a law establishing their company as a public utility or semipublic utility. But the people object to that. They are afraid of it. The public, as a rule, are scared to death of anything that looks like monopoly in the milk business, and that is because you are dealing with women who have instincts that are closer to home than other people's. That is one of the things that you can't figure out or don't know until you actually deal with the public.

One of the reasons in Detroit for any success, or part of the success that I am in business at all, is because the people are afraid of monopoly. They don't want that. They don't want anything that savors of that.

Acting Chairman KING. Are you through with the witness?

Mr. BALLINGER. I think we may recall him for a few things this afternoon.

Acting Chairman KING. The committee will adjourn until 2:30 o'clock.

(Whereupon, at 12:25 p. m. a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at 2:35 p. m., upon the conclusion of the recess.

Acting Chairman KING. The committee will be in order. Proceed, Mr. Ballinger.

Mr. BALLINGER. Mr. Johnson, this morning the question was asked you how much it would cost you to distribute milk in Detroit on a house-to-house basis rather than selling from your depots. I think

your answer was not entirely clear to the committee, and I would like to ask you this question again.

Before you entered the milk business in Detroit you said that milk was selling at 12 cents a quart. After you entered this market, you were selling at 6 or 7 cents a quart. If you went in, or if you had gone into this business of distributing your milk from door to door, rather than selling it over the counter in deposits, would it have cost you 12 cents to distribute the milk?

I am asking you this question because we are maintaining in this hearing before the Temporary National Economic Committee that the retail price of milk is set by the big distributors and that this fixed price is a burden upon consumers of milk. If, as might be inferred from your testimony this morning, it would cost you 12 cents a quart to distribute milk in Detroit, then the price which prevailed in this market before you entered it would not be a monopolistic price in the sense that it was an exorbitant price, using this system of distribution.

Mr. JOHNSON. Well, Mr. Ballinger, if I were distributing house to house I would save the cost to the depot and I also have now one-cost distribution. I deliver the milk from my dairy to the depots. I would save that cost, and the additional cost would be—at the present price I am paying the farmer it would be 8 cents.

Mr. BALLINGER. You could have distributed it to consumers at about 8 cents on the basis of door to door business?

Mr. JOHNSON. I used to be in the retail business so I know about what the costs are.

Dr. THORP. May I ask whether this relates to the 6- or 7-cent milk—with which butterfat?

Mr. JOHNSON. That would be the 7-cent milk.

Mr. HINRICHs. You are now paying $3\frac{1}{3}$ cents for milk, so your estimated cost is $4\frac{2}{3}$ cents for door to door delivery.

Mr. JOHNSON. I am now paying $3\frac{1}{3}$ cents.

Mr. HINRICHs. Wasn't that your testimony this morning?

Mr. BALLINGER. He doesn't distribute from door to door.

Mr. HINRICHs. You said this morning you were paying the farmer $3\frac{1}{3}$ cents, and you estimate 8 cents as the cost of taking the milk from the farmer and getting it to the consumer's doorstep.

Mr. JOHNSON. To be conservative I would be safe in saying 8 cents.

Mr. HINRICHs. If you were pressed? You say this is a conservative estimate. How much could you shave off that? More than the two-thirds?

Mr. JOHNSON. I am not in that business. I don't believe in it; it is passé. It is all just a question of qualification, anyway, because I have no intention of getting into that business. When I was in that business I used to figure about 3 cents over what the milk cost after it was pasteurized, and you can figure from that point yourself. If you pay the farmer 5 cents, it is going to be 8 cents.

Mr. HINRICHs. Three cents after it was pasteurized.

Mr. JOHNSON. After it was pasteurized.

Mr. HINRICHs. And half a cent for pasteurization.

Mr. JOHNSON. That is right; $3\frac{1}{2}$ cents.

Mr. HINRICHs. So the figure is somewhere between $3\frac{1}{2}$ and 4 cents.

Mr. JOHNSON. That is right.

Dr. HOWE. And the total is between 7 and 8 cents.

Mr. JOHNSON. Yes; the present price paid the producer.

Acting Chairman KING. In a large city where so many people live in rented houses and in large apartment houses, would the plan you have adopted in Detroit be satisfactory?

Mr. JOHNSON. It is really more satisfactory.

Acting Chairman KING. Do you think people who rent apartments in large apartment houses would go to some station or depot and buy the milk and carry it home?

Mr. JOHNSON. Yes; I think they do, because they go and carry everything else home. In these large apartments they have very little delivery.

Acting Chairman KING. Would the conditions prevailing in Detroit be typical of conditions prevailing, for instance, in Chicago, Kansas City, in Birmingham, Ala.; San Francisco, Seattle? In other words, is there any uniformity in the prices of milk and its products, in all parts of the United States, and are the prices and conditions uniform?

Mr. JOHNSON. Yes, sir; I have found people in every corner of the United States, in a small village or large city, are practically the same. There is practically no difference in people. When I was in business in Grand Rapids, a city of 100,000 they liked this method, and when I go into Detroit, a city of approximately 2,000,000 they still like it because they are the same kind of people.

Acting Chairman KING. I had in mind in my question the physical condition, climatic conditions, the freight rates, the distance from large cities, and the wage scale. And all of those conditions which enter into our economic system. Whether or not you could use Detroit—it may be favorably or unfavorably situated, I make no statement—as a basis to determine what would be a fair and just price in every part of the United States, rural, urban, and suburban, near the coast, in the interior, places where the feed is scarce and where they have to import it, where the rates of freight are high—all of those conditions which enter into the final economy and into the final costs of the product.

Mr. JOHNSON. I think this method would be favorable in every city in the United States.

Acting Chairman KING. I am not speaking about the method; I am speaking about the cost, whether you could lay down a uniform ceiling, so to speak, and say that costs all over the United States ought to be the same in the production of milk and in the distribution of it and the sale of it to the consumer; whether in the city, big city, little city, small communities, seaboard, and so on, you could say that there must be a uniform price and the uniform price would be just and fair in every part of the United States, under all conditions.

Mr. JOHNSON. Not in the production of milk. I think in certain sections it would be cheaper; but in the distribution, whether North, East, South, West, large or small cities, I think the costs are practically the same, because one thing offsets the other a little bit. For instance, were I in a small town, my costs in some things might be higher and in others lower; but in the large city my costs in some things would be lower, because there would be so many more customers. Where I had to pay a little more for some things, like power,

or a little more for help, my extra distribution would make it easier. I have found in the so-called more difficult cities it is really easier.

Acting Chairman KING. I had in mind an investigation which was conducted in the District here a number of years ago,¹ and I recall very distinctly that one of the reasons assigned for the high price of milk, I believe, was that in the States from which the milk came there had been a shortage of feed; they had to import it at double or treble the cost which had prevailed when they had ample feed supply, and they justified high prices for the production of the milk from the farm because of the enormous amount which they claimed they had to pay for feed.

Mr. JOHNSON. That is not true, because they don't pay but very little more for cream, for instance, in Washington than I do in Detroit or Milwaukee.

Acting Chairman KING. I am speaking of the farmer, the man who produced it. They claimed that they had to charge more for the milk because of the higher price they had to pay for feed.

Mr. JOHNSON. There is not as much difference as there is in price. The cost of handling a quart of milk in every city is practically the same.

Acting Chairman KING. I don't make myself clear. I am not referring so much to the handling; I am speaking about the production of it, whether the farmers who produce the milk could have a uniform price paid to them which would be just because of the variation, climatic conditions, wage scales, cost of feed, cost of freight, and so forth.

Mr. JOHNSON. I think they could. In the South they have 4 cows and expect to make a living on them, and in Wisconsin they have 20, and one offsets the other.

Mr. BALLINGER. From your experience in the milk business, Mr. Johnson, do you think that the big distributors of milk are interested in developing the market for fluid milk?

Mr. JOHNSON. No; I don't think so. The National Dairy, through the subsidiary, Kraft Cheese, sells oleomargarine, and I think they are trying to kill the fluid-milk business and get it all into cans so they can control it.

A few years ago a can of evaporated milk sold for the same price as a quart of fluid milk; and they are equivalent, nearly equivalent, 10 grams in Washington for 6 cents, to a quart of milk. It takes a huge investment to go into the evaporated-milk business.

Mr. BALLINGER. From your experience, have you observed that the big distributors of milk are sort of on their toes for introducing improvements into the business? For instance, you are apparently the author of a new system of distribution. You thought this out; you were a small man; you put it into effect. Have you observed that the large companies are equally receptive to new ideas?

Mr. JOHNSON. I don't know of a single new idea they ever thought of.

Mr. BALLINGER. You said this morning that you had some plumbing difficulties before you left town. Will you explain what they were?

¹ See footnote 2, *supra*, p. 2817.

Mr. JOHNSON. I have 40 depots, and I had 30 complaints where the plumbing or building inspectors had gone around and wanted to know who put the plumbing in, and made me furnish the name and address of the plumber, the number of the permit, and every one was just a little bit different. These buildings were rented, and I had nothing whatever to do with the plumbing or the construction of the building.

Mr. BALLINGER. In other words, you think these troubles you have had in plumbing emanated from the same source as your other troubles.

Mr. JOHNSON. Exactly, the same scheme of harassment.

Mr. BALLINGER. Are you in favor of cooperatives?

Mr. JOHNSON. I am not in favor of them as they are in Detroit, where they control 95 percent of the milk at one time. I am if they are competitive.

Mr. BALLINGER. In other words, the cooperative movement must be kept competitive.

Mr. JOHNSON. Yes. A cooperative in milk in Detroit wouldn't sell me milk at any price.

Mr. HINRICHS. Are your plants organized?

Mr. JOHNSON. No, sir. You mean organized labor?

Mr. HINRICHS. Yes.

Mr. JOHNSON. No; I pay from \$1 to \$2 more than the wage scale in Detroit. They attempted to organize my employees and they refused to go in. I have a base pay of \$7 a day for all my help, that is, in the plant or on the truck. I pay every man the same wage, whether he is a good man or a poor man. If he is a good man I try to give him a little better job to compensate.

Mr. HINRICHS. Your truck drivers are paid at the same rate as your people in the pasteurization plant?

Mr. JOHNSON. That is right.

Mr. HINRICHS. You have only a single wage in the plant?

Mr. JOHNSON. \$42 a week.

Mr. BALLINGER. Have you ever had a strike?

Mr. JOHNSON. Never in my life.

Mr. BALLINGER. Those are all the questions I have to ask.

Dr. THORP. I would like to ask a little about what is apt to happen if the tendency continues for shifting distribution of milk according to the use of depots. Let us suppose that there is some considerable group in the population, maybe a third or a half, which would still wish to have door-to-door delivery. Would you expect the result to be increased price for the door-to-door delivery; in other words, would we get a wider differential or isn't there any considerable relationship between the volume there and the cost per quart?

Mr. JOHNSON. I am no prognosticator of the future. I can't tell what anybody wants to do. I know this: If you have got money to spend, there will be somebody to take it from you. If you want your milk delivered, there will be someone there to deliver the milk for you. But if you want to cut the cost of delivery, you could discontinue some of this duplication of service.

Mr. BALLINGER. Except for you they wouldn't have had the chance of electing this choice.

Mr. JOHNSON. Not in Detroit; no.

MILK PRICE PAID TO FARMER IN DETROIT AREA

Mr. HINRICHs. Mr. Chairman. [To witness] This morning you said that you paid a tenth of a cent above the blended price. By blended price, what did you mean?

Mr. JOHNSON. Ten cents a hundred, to the farmer.

Mr. HINRICHs. But the blended price is an average of the price that he gets for fluid milk and surplus milk.

Mr. JOHNSON. I don't think anybody knows what it is. They advertise that they pay the farmer \$1.90 when he actually receives \$1 a hundred. I used to be able to get the statements back from the producer but in the last 3 months they made a change in the method of paying. They print the statement of what the farmer gets for his milk on the back of a check, then when the farmer cashes his check the statement of what he got for his milk goes back to the company made out, so there is no way you can tell unless you get the checks.

Mr. HINRICHs. By the blended price you mean the average price the farmer gets, what he is finally paid for his milk, no matter what purpose it is used for.

Mr. JOHNSON. That is right.

Mr. HINRICHs. You said, if I remember correctly, that you have no trouble in getting farmers to sell to you, that rather most of the time you have too much milk.

Mr. JOHNSON. That is right.

Mr. HINRICHs. With a price a tenth of a cent better than the average you ought to be in a very favorable position as a buyer.

Mr. JOHNSON. Well, sir, I saw some farmers over in Lansing at a hearing of the milk-control meeting and they told me if I came back to Grand Rapids they would give me milk 3 months for nothing.

Mr. HINRICHs. You are, however, selling about 6 percent of the fluid milk in Detroit. Was that your figure, approximately?

Mr. JOHNSON. Between 4 and 6 percent; I don't know exactly.

Mr. HINRICHs. Between 4 and 6 percent of the fluid milk. Would you be in a position to purchase all of the milk offered in the Detroit milkshed?

Mr. JOHNSON. Certainly not.

Mr. HINRICHs. On this basis?

Mr. JOHNSON. Certainly not. I think it would take the Federal Government to buy all that milk. [Laughter.]

Mr. HINRICHs. The answer is very well taken. I gathered that Mr. Howe is introducing his testimony as a picture of something of an ideal competitive situation, or at least moving toward an ideal competitive situation. That would be correct, would it not, Mr. Howe?

Dr. HOWE. That is one element in it.

Mr. HINRICHs. If all the competitors in the market who could handle the volume of milk business in Detroit were to offer this single price as you do, could they take all of the milk that was offered?

Mr. JOHNSON. If the milk market in Detroit was competitive, the farmer today would probably be getting \$2.40 for his milk rather than \$1.50.

Mr. HINRICHs. For milk that is to be drunk out of the bottle.

Mr. JOHNSON. For what these dealers have to pay, whatever they use it for.

Mr. HINRICHS. Some of that milk that is now bought goes into butter and cheese, does it not?

Mr. JOHNSON. No, not any of it. All the milk that is bought goes either into milk or cream, fresh cream, sweet cream. You see, we are limited to the milk we can buy by the Detroit Board of Health regulations; we can only buy milk from farmers who have a permit from the Detroit Board of Health to sell milk.

Mr. HINRICHS. And those farmers sell exclusively fluid milk?

Mr. JOHNSON. Yes, and they are not allowed to sell anything else except fluid milk. The farmer really has a monopoly on it, because there are only about enough farmers who have passed the board of health regulations to supply the milk that is furnished in Detroit. There aren't many more farmers that are able to supply Detroit's milk.

Mr. HINRICHS. Where does the milk for butter come from, then?

Mr. JOHNSON. Well, it comes from beyond the Detroit milkshed.

Mr. HINRICHS. Then there is no surplus milk being sold in this area? They don't have a class 1 and a class 2 price?

Mr. JOHNSON. Oh, yes, they do. Milk was short last fall, and they still paid the farmers a 50-percent surplus. They had an understanding with the producers' association ahead of time that they were going to pay only so much so they could get out and compete with my milk depots. Mr. Beach¹ made that statement himself.

Dr. THORP. Were you here this morning when Dr. Howe talked about class prices, milk selling at two different prices, the milk for fluid consumption and the milk for butter consumption.

Mr. JOHNSON. No, I wasn't.

Dr. THORP. That was a situation that was described. I gathered that that sort of situation does not control in the Detroit area. The farmer, in other words, sells only fluid milk.

Mr. JOHNSON. The farmer sells fluid milk, and when he gets his check he gets paid for class 1 and class 2, and he doesn't know for 6 weeks after he sold his milk how much of either class he is going to get paid for or how much he is going to get paid for either class.

Mr. FERGUSON. And he has to depend upon what his purchaser says.

Mr. JOHNSON. Exactly. He is absolutely in the hands of one man, the manager and the milk company.

Mr. HINRICHS. What is class 2 milk?

Mr. JOHNSON. I don't know. I don't buy that way. The class 2 milk is what they don't want to pay \$1.90 for, the way I look at it. They only want to pay \$1 a hundred for that. That makes it class 2.

Mr. HINRICHS. Assuming that these companies were honest in their bookkeeping—

Mr. JOHNSON (interposing). They are not, why assume it?

Mr. HINRICHS. What do they say the thing is for? Is it the milk they put into butter and cheese?

Mr. JOHNSON. They say they pay \$1.90 so the consumer thinks they are paying a high price and they can make the farmers believe they are paying \$1.90.

Mr. HINRICHS. I think you said they pay \$1.90 for fluid milk, class 1.

¹ Mr. Beach subsequently appeared before the Committee on May 1, 1939. His testimony begins *infra*, p. 2884.

Mr. JOHNSON. That is right.

Mr. HINRICHS. And how much for class 2 milk?

Mr. JOHNSON. The condensery price or whatever they agree on. They change it every month. They might pay the butter price, they might decide this month they need to have a check-off of 7 cents a hundred. The farmer, when he sells in the Detroit area, signs a contract with the Michigan Milk Producers' Association to take for his milk whatever they see fit to give him.

Acting Chairman KING. But the milk association is their own organization, isn't it?

Mr. JOHNSON. It is their own organization in this way: That if you were a dealer over there you would insist upon your farmers belonging. The dealers insist on the farmers belonging to that association or they won't buy their milk.

Mr. HINRICHS. This class-2 milk purports to be going into butter or into condenseries or into cheese?

Mr. JOHNSON. Yes.

Acting Chairman KING. Not into butter.

Mr. JOHNSON. It is never used for butter, because there is a shortage of fresh milk. It is never used for butter.

Mr. HINRICHS. It purports to go into condenseries.

Mr. JOHNSON. No, no, no.

Mr. HINRICHS. Where does it go?

Mr. JOHNSON. It just goes into cream.

Mr. BERGE. Isn't the class-2 milk any milk that isn't sold as fluid milk, whether it goes into butter or cheese or canned milk or whatever it is used for?

Mr. JOHNSON. That is right. Every man might have a different answer. I should think the best way to do is ask the man who is buying milk on that basis. I don't buy on that basis and every man has a different idea. They tell you what they think you want to hear. One man says he uses it for butter because he thinks you want to hear that. You evidently want me to say it is used for butter. Were I another company, I would tell you yes, but actually it goes into the bottle as fluid milk.

Mr. HINRICHS. I think your suggestion is very wise. I would be glad to have an opportunity to talk to people that are doing it and I am glad you confine yourself to the thing you do know. But the amount of this class-2 milk is so large that it brings the average that is paid down from an offered price of \$1.90 for class-1 milk to a general average of \$1.50; is that correct?

Mr. JOHNSON. That is right.

Mr. HINRICHS. So apparently very large quantities are going into class 2 consumption.

Mr. JOHNSON. That is right, apparently.

Mr. HINRICHS. Apparently?

Mr. JOHNSON. Apparently, yes.

Mr. HINRICHS. My question then is, could you and 20 other competitors like you take all of the milk that is offered at the fluid milk price which you are paying, because some of what was offered to you, you would have to sell into secondary uses, into manufactured uses, isn't that correct?

Mr. JOHNSON. Yes, but if all the milk in Detroit were sold under my method of distribution, we would be short of milk. Cream is

being shipped into Detroit from Ohio, for instance. Ohio ships cream into Detroit. There actually is a shortage of milk in Detroit. You see, Michigan is an industrial State and Detroit is an industrial city. This class 1 and class 2 is just imaginary, just to make the farmer feel that he gets a big price for his milk, to make the consumer feel that he gets a big price, when actually there is no surplus of milk.

Acting Chairman KING. May I inquire; you referred to Ohio. Isn't it possible that in Ohio they would have a surplus of milk for use for fluid milk, and therefore they have the secondary milk which they ship into Michigan or some other State?

Mr. JOHNSON. There are board-of-health regulations. In Detroit we have to have the farmers under direct inspection of the Board of Health of Detroit, and they limit the area. They go out, say a hundred miles from Detroit. But there are no board-of-health inspections of the plants, only of the plant from which you get the cream.

Acting Chairman KING. My recollection of the hearing in the District a number of years ago¹ was to the effect—my memory may be imperfect—that in the area from which the milk came, they called it the Maryland and Virginia milkshed, there was more primary milk, fluid milk, produced than was required, and therefore they had to classify it as fluid and secondary, or surplus, and therefore they made a distinction in the price between the fluid and the secondary.

Mr. JOHNSON. That is right, but at the same time they were importing all the cream into Washington. They still are. There is a firm close to Detroit shipping cream to Washington today—or was a few days ago.

Acting Chairman KING. That may be.

Mr. FERGUSON. Mr. Johnson, you said, I think in your statement this morning, that you were thinking about going into production of cheese and some of these processed products.

Mr. JOHNSON. Only cottage cheese, that is all.

Mr. FERGUSON. Do you know, Mr. Johnson, whether or not there is more profit in manufacturing and selling the processed products of milk than there is in selling fluid milk?

Mr. JOHNSON. I was talking with a man who claims he is an official of the Kraft Cheese Co., and he claims that the Kraft Cheese Co. made \$30 000 000 last year and had to turn over \$12 000 000 to the National Dairy because they lost money, and the Kraft Cheese made eighteen million then.

Mr. FERGUSON. As I understand from the testimony of Dr. Howe and from your testimony, the purchasers, the distributors of milk, pay less for the milk that they buy from the farmer than they put into the processed products.

Mr. JOHNSON. That is right.

Mr. FERGUSON. So that they pay less for the product on the one hand and charge the consumer more on the other hand.

Mr. JOHNSON. That is right.

Mr. BALLINGER. Mr. Chairman, we are ready to release this witness.

Acting Chairman KING. If there are no other questions, thank you very much, Mr. Johnson.

¹ See footnote 2, p. 2817, supra.

Dr. HOWE. I think the point just brought up is very important, one of the most important of all the facts. You said earlier that you thought the big distributors discouraged the use of fluid milk in order that they might have a larger supply of milk to go into the processed products, so that the inference was that they were possibly interested in discouraging the use of fluid milk in order to make larger profits out of a surplus milk which went into the manufacture of butter and cheese and other things. Was that the proper inference?

Mr. JOHNSON. No; I am talking about fresh milk and fluid milk all the time. I think they discourage fresh milk because they don't care very much about the fresh-milk market because they sell enough anyway, and they are trying to encourage substitutes, like evaporated milk.

Evaporated milk requires a huge investment to build a plant. But they can ship three or four trainloads of evaporated milk out of Wisconsin and break the farmers down in Michigan; and they can ship three or four trainloads of evaporated milk out of Michigan and break the farmers down in Indiana. They like that sort of thing. They store up huge stocks when the price is low. If you listen over the radio, you would think the only milk fit to feed your children was evaporated milk, and I never saw anybody yet who would use evaporated milk and oleomargarine when he could get butter and fresh milk.

Dr. HOWE. Is that why the consumption of evaporated milk, according to the statistics of the Federal Trade Commission, has gone up over 100 percent in 15 years?

Mr. JOHNSON. That's right.

Dr. HOWE. What do you charge for a pint of cream?

Mr. JOHNSON. Fifteen cents.

Dr. HOWE. For a pint?

Mr. JOHNSON. Fifteen cents for a pint, two half pints.

Dr. HOWE. What was it sold at before you began to sell cream?

Mr. JOHNSON. Fifteen cents for a half pint, twice the price I charge.

Dr. HOWE. Have you had any experience with a bottle exchange?

Mr. JOHNSON. Yes; I know how they work.

Dr. HOWE. That has been introduced in evidence. How do they work?

Mr. JOHNSON. I will talk of the one I know about Grand Rapids and Detroit. To belong to the bottle exchange you have to belong to the milk dealers' association, and when you are in the old-style milk business you can't get your bottles back unless you belong to the dealers' association, because you have to have your name blown in the bottle. In my type I charge 5 cents deposit, and if they don't want to bring the bottle back they don't have to, but they do bring it back. Then, if you don't do what the milk dealers' association tells you to do; if you don't set the price at what they tell you to set it, your wages, for instance—I have always been criticized because I was a traitor to my class and paid too high wages. But then I wouldn't get my bottles back. They would be destroyed or lost, or they wouldn't pick them up, or something else. That is how bottle exchanges work; and then they pass a law and make it legal.

Dr. HOWE. You made one other statement after the hearing this morning that if 25 percent of the milk distribution in a city was controlled, it was in effect a complete control.

Mr. JOHNSON. I think the control of 25 percent of any commodity in a city controls that commodity.

Mr. BERGE. Mr. JOHNSON, the production of milk fluctuates a good deal from season to season, doesn't it?

Mr. JOHNSON. That's right.

Mr. BERGE. Heaviest in the spring and early summer?

Mr. JOHNSON. That's right.

Mr. BERGE. Now, the demand is fairly constant, isn't it, throughout the year?

Mr. JOHNSON. That's right.

Mr. BERGE. Then, if in any milkshed like Detroit you are going to produce enough milk to supply the fluid-milk demand the year round, you will necessarily have a surplus at one time of the year that can't be marketed for fluid-milk use.

Mr. JOHNSON. That's right.

Mr. BERGE. Well, then, if everybody in the city were in the same business you are in, the other, the surplus, wouldn't be cared for. That is, there must be some of the milk from a given milkshed, at least during part of the year, going into class 2 use, must there not, or else the market will be glutted and the price of class 1 milk will go to pieces during that surplus-milk season?

Mr. JOHNSON. I wouldn't say the price of class 1 would go to pieces, but your selling price might go to pieces. Years ago we used to charge one price in the winter, when we paid more for milk, when the cost of production was high and milk was fairly short. In the summertime we sold milk for less when we bought it for less. But in late years the production of milk in the winter months, due to silos and better barns, and such things, has been better. That condition has changed the same as roads and trucking and everything else has changed.

Mr. FERGUSON. Shouldn't the consumers have the advantage of this seasonal production?

Mr. JOHNSON. That is my theory. My theory is the consumer and the public should have all the advantage. I don't think I can exist at all, only on the sufferance of the public. I don't think I have any right to be in the milk business, only that I am giving the public a good deal. The farmer, he has to depend on the public. I think the public is the last word in all answers. The farmer is out for himself, I am out for myself, and the public sit back and the public certainly is in the majority.

In the city of Detroit there are 50 or 60 distributors, probably, and there are 2,000,000 consumers. Along that line, your organized labor: The business agent for the milk-wagon drivers went to Homer Martin—did you ever hear of him, C. I. O. or U. A. W., I don't know which it is—and they said, "What about this man Johnson? We have got to get rid of him; he is doing this and that."

Homer Martin said, "How many drivers are there?"

They said: "There are 2,000 milk-wagon drivers in the city of Detroit," and Homer Martin said, "There are 2,000,000 citizens of Detroit who are more important than the 2,000 milk-wagon drivers," and he said, "I understand that Johnson's standards are high, his wages are a dollar a day higher than yours. The best thing you

can do is go about your business, because you may be starting something you can't finish." That was Homer Martin's answer to the milk-wagon drivers' union of Detroit.

Acting Chairman KING. The labor union prevails in the trucking business, I suppose?

Mr. JOHNSON. Yes, exactly, sir. I have no objection to unions, but if I have 14 drivers they would certainly be outvoted when it came to 2,000 drivers in the other 2 or 3 companies. I don't think I would stand much show.

Acting Chairman KING. You don't have a closed shop?

Mr. JOHNSON. No.

Mr. HINRICH. He doesn't have any union men at all.

Dr. THORP. You felt that the control of 25 percent was sufficient to control a market. I have had the impression, from listening to your testimony, that in the Detroit market, at any rate, your operations were of considerable influence, and that is only 4 to 6 percent.

Mr. JOHNSON. No; it isn't I. It is the public that is buying my milk that is keeping after these other companies. The public are the ones that made it hard for them, not me, or it was the conscience of these birds, whichever way you wanted to put it, because they could see the trend of the public. When people will go to my depots and buy milk, notwithstanding what they have heard, and when they can have milk delivered to the homes—I will show you something. This man Gabel, or his father, sold out to National Dairy or Borden for \$2,000,000, and they said, "We are going to start a milk depot next door to every one of Johnson's." Here is one, selling milk right next to mine, and he didn't take one customer.

Acting Chairman KING. Why was that, because the public believed in you?

Mr. JOHNSON. Yes. The public said, "He has had all the money out of us he should have years ago; it is time somebody else had a chance," and they even went so far as to tell the customers, "What do you deal with Johnson for? We will get you something anyway."

Mr. DAVIS. Mr. Johnson, don't you think it is likely that your customers have in mind that if they go to your competitors to get a temporary better price, that may result in putting you out of business, and when you get out of business, that they will all have to go back to paying 12 cents, or whatever they were paying before?

Mr. JOHNSON. Twelve cents for 3 percent milk. That is exactly it. Every day I get letters telling me this, and every day I get telephone calls. It is the first time in my life that I ever knew milkmen to be popular. It is generally complaints.

Mr. BALLINGER. Though you operate an open shop, you pay higher wages than the union rates?

Mr. JOHNSON. Yes; and when I came into Detroit I brought along that idea. They were paying around \$22.50 to \$25 a week for inside help and I immediately paid \$42 a week, and that made quite a hit, even with the union members. At least there was a mark for them to shoot at, but as I said this morning, my theory of labor is different from other people's. Some people will have one man drawing \$60 a week, a straw boss, and a dozen men getting about 15 cents an hour, and he will be chasing the life out of them, and I don't believe in that

sort of thing. I hire a man and expect him to do a man's work, and if he doesn't I fire him. Before I hire him I tell him there is nobody over him except me.

Acting Chairman KING. Thank you very much. Call your next witness.

(The witness, Mr. Johnson, was excused.)

Mr. HINRICHs. I would like to ask some questions of Mr. Howe.

TESTIMONY OF DR. FREDERIC C. HOWE, FORMER CONSUMERS' COUNSEL, AGRICULTURAL ADJUSTMENT ADMINISTRATION, WASHINGTON, D. C.—Resumed

CONSUMPTION OF DAIRY PRODUCTS

Mr. HINRICHs. Mr. Howe, you spoke just now about an increase, did I understand you to say, of 150 percent in evaporated milk? Was that the figure you used?

Dr. HOWE. In Milwaukee it increased 139 percent, to take one city.

Mr. HINRICHs. The only figures that I have in front of me are the figures of agricultural statistics for 1938 published by the Department of Agriculture, page 346. Those extend back to 1927; a comparable table appears in the 1936 statistics. That goes back to 1925. There the per capita consumption of evaporated milk in 1925 was 11.1 pounds. In 1936 it was 16.6 pounds. Isn't one of the very significant developments which has been going on the substitution of evaporated milk?

Mr. SIMPSON.¹ That is correct.

Mr. HINRICHs. The per capita consumption of condensed milk has gone down quite substantially from 2.6 pounds per capita to 1.9 pounds per capita. Those are the figures that I am taking from the Year Book of Agricultural Statistics. The production in 1937—I don't have the 1938 figures—according to Survey of Current Business was less than in 1936, so that part of that movement which seemed to be attributable to a movement against fluid milk was actually a movement against condensed milk.

Mr. SIMPSON. If you combined condensed and evaporated milk, you would find that there has been almost doubled production over the 15-year period, and those are figures of the Department of Agriculture. They have given me 1922, 1923 figures for comparison with those of 1938.

Mr. DAVIS. How about the increase in powdered milk?

Mr. SIMPSON. I don't happen to know those figures, Mr. Davis.

Mr. DAVIS. Are those figures given there powdered or dry milk? There has been quite a development along that line.

Mr. HINRICHs. I thought they were included with the evaporated milk figures. I know nothing about the milk business, but I am lacking something in the picture of the character of the demand for milk products that makes it difficult to evaluate the testimony as to what the shifts would be, and I was trying to develop information along the lines from your experts of what the demands for these various products were.

¹ Kemper Simpson, economist, Federal Trade Commission.

Mr. DAVIS. That is the reason I asked about powdered milk, because I think that is in the picture.

Is it not a fact, Dr. Howe, that powdered milk is the kind that is generally exported from this country because it keeps better and is shipped much more easily, particularly in the Tropics?

Dr. HOWE. I can't speak with exact knowledge as to powdered milk, but it is a commodity which has been growing in use in recent years. It is being bought by the United States Government and being shipped to the South and being shipped, I believe, to Puerto Rico and elsewhere in connection with the fight against pellagra.

It is, I believe, also used in connection with the production of ice cream. A few years ago producers looked upon it as a rather surplus product that they didn't know what to do with, but as I recall it now the price has gone up very materially lately in connection with the increased consumption. That is my very limited knowledge of that subject.

Mr. HINRICHS. Dr. Howe, what was the year of maximum per capita butter consumption in this country?

Dr. HOWE. I don't know it.

Mr. SIMPSON. I can give it to you, 1932.

Mr. HINRICHS. What happened to the wholesale price of butter between 1929 and 1932?

Mr. SIMPSON. It fell very much.

Mr. HINRICHS. It fell very substantially?

Mr. SIMPSON. Yes.

Mr. HINRICHS. We come back again to this question of what happens if you start marketing all milk at a common price. Mr. Johnson was paying \$1.60 in a market where the class 1 price was \$1.90 and where the class 2 price was not given, but the net price for all milk according to Mr. Johnson was averaging \$1.50 a hundred. The statement has been made that a lowering of the price of fluid milk, getting a single price for all milk, will very greatly increase the consumption of fluid milk. I think that everyone would agree with that statement. It is important, however, to the deliberations of this committee when we are looking for ways to improve the consumption of milk products, to improve the position of the farmer at the same time, if we can. We need to make sure of what we are doing.

Dr. HOWE. Certainly.

Mr. HINRICHS. It then becomes a question of how much would the consumption of fluid milk be increased, because if you have a common price for milk it means that the price of milk going into butter and cheese and other manufactured milk products is going to be higher than it is at the present time. That would be correct, would it not?

Dr. HOWE. I am going to turn that over to Mr. Simpson. He seems to have that, if you will permit me to. He has made special studies of this in connection with the Department of Agriculture.

Mr. SIMPSON. This morning the question was put as to the effect of a change in price on the consumption. That was not answered. I think that one answer is that in New York the State Department of Agriculture gave figures and text to show that during the so-called years of prosperity, from 1925 to 1930, the consumption of fluid milk

rose considerably. Incomes were good, and prices remained stable or rose with the price of fluid milk. During the depression, when the retail price was kept rather rigid, when it didn't decline, and when incomes were reduced, the consumption of fluid milk decreased considerably. Part of that was a change in the consumption of cream, but I don't think all of it was.

In other words, if you would reduce the price of fluid milk you would undoubtedly increase the consumption of fluid milk.

The second point which you make is that if the class 2 and 3 and 4 prices are not kept low butter will have to be sold at a higher price; canned milk will have to be sold at a higher price. I think our position is that there is no reason why the fluid-milk consumer should have to pay a higher price in order to make canned milk and processed cheese and centralizer butter cheaper, because we feel that the most important of the milk products is milk, and there is no particular advantage in having a low cost of raw material on milk products if that lower cost involves a higher price for fluid milk. Does that answer your question, Mr. Hinrichs?

Mr. HINRICHS. It doesn't answer my question. It is a very clear statement of your position and would be the result, I presume, of purely competitive price fixing. But if the elasticity of demand for butter is substantially greater than that for milk, it is conceivable that a fall in the price of fluid milk would result in a smaller aggregate increase in the use of milk than the decrease in the use of milk going into butter and cheese that would result from the higher price of butter.

I would like to ask, if I may, that the Federal Trade Commission introduce into the testimony at this point an expert statement on their own responsibility, or from the Department of Agriculture, as to what the relative shift in demand would be for any given change in price.

Mr. FERGUSON. Mr. Chairman, Mr. Simpson, I am not quite sure whether I understood Mr. Hinrichs correctly or not, but he used an expression which I have never heard before—competitive price fixing.

Mr. SIMPSON. I think Mr. Hinrichs probably meant the price that should be fixed under the competitive system. Isn't that the implication?

Mr. HINRICHS. That will do.

Mr. SIMPSON. You see, Mr. Hinrichs knows just as well as I that these questions of the problem of figuring the elasticity of demand of butter and cheese and milk involve very complicated statistical refinement. I think that we have a great deal of good common-sense evidence that if you lower the price of fluid milk that people who can afford to buy it will buy it, and I think Mr. Johnson's testimony, the testimony of the Department of Agriculture, the New York State Department of Agriculture, and other evidence is sufficient to prove that if you lower the price of fluid milk there will be a greatly increased, or should be a greatly increased, consumption of fluid milk.

All of this is hypothetical. We can draw charts about it but we can't definitely answer your question. I think there will be a great shift in the consumption of butter if the price of butter were to change, but it is interesting that during the depression there was a large per capita consumption of butter, and the reason for that, or one of the reasons, was that the price fell very low, and the reason the price fell

very low was because the distributors were able to pay the farmer a very low price for milk and were able to sell butter very cheap, at the same time they were maintaining the retail price of fluid fresh milk, a product that we think should be cheap during depressions for people who can't afford to buy many different kinds of food.

Mr. HINRICHS. Mr. Simpson, your position is very clear. My position is merely that I don't want to engage in a study or possibly make recommendations which would lower the total consumption of milk in the country of all types without at least knowing about it. You speak of the difficulty of these computations. There are techniques which have been developed as one of the contributions which the agricultural economists have made to our body of knowledge in the last 20 years, which enable rather good guesses to be made as to the probabilities, and I still say that I would appreciate an opportunity to see an expression of expert opinion on that subject if you care to introduce it.

Mr. SIMPSON. I might say this one thing in closing: We have a good deal of evidence in the facts that have been brought out here that people will consume more of all the milk products when the price is sufficiently lowered. We have evidence that the consumption of canned milk, condensed plus evaporated, taking the two together, has increased materially as a result of the lowered price.

We have some evidence in the other milk products, and I think that we have sufficient evidence in the testimony that has been given and in other of our studies to show that if you get fluid milk cheap enough you would have an increased consumption of fluid milk.

Acting Chairman KING. If there is an increased consumption of fluid milk, would there not be repercussions with respect to the price of other commodities, say butter?

Mr. SIMPSON. There might. We would have more fluid milk consumed, less canned milk consumed, less processed cheese about which we haven't said very much.

Acting Chairman KING. And less butter.

Mr. SIMPSON. And less of certain types, as well as less butter, but I think you would have more fluid milk produced and the farmer under your surplus system would get a higher average price because the more milk that goes into fluid milk under your base surplus plan the higher the price the farmer gets.

Acting Chairman KING. But the higher the price of fluid milk the less, especially in periods of depressions, is consumed and the greater quantity of milk if the production, is substantially the same, goes into subordinate products—butter.

Mr. SIMPSON. Yes, sir.

Acting Chairman KING. So it balances itself.

Mr. SIMPSON. Well, it balances, except that we feel that fluid milk is one of the essential products, one of the essential necessities in the workers' diet, and we feel that perhaps processed cheese is much more of a luxury product and canned milk a less desirable product than fresh milk.

Acting Chairman KING. Is that all that you have?

Dr. HOWE. One fact that might be added to that is that the farmers are able to produce much more milk than they do at the present time, so that all of the milk that is needed for butter and

cheese might very easily be supplied even if it all went into fluid milk.

Mr. BALLINGER. Senator, we are going to move into a new industry now, and not for a very long time, and then if we have any time left we would like to move into still another industry, if you will bear with us.

Dr. HOWE. In order to complete my presentation, which has been interrupted by the next witness, I shall submit the balance of my testimony as an exhibit. It relates to the extent of monopoly in the dairy industry.

Mr. BAUGHMAN. Mr. Chairman, may I follow that through at this time before the witness is called? In behalf of the Federal Trade Commission I want to offer a report on Concentration of Control Over Sales and Distribution of Milk and Dairy Products under Public Resolution No. 113, Seventy-fifth Congress, and to add to that this statement, that the figures and statements therein come from the correspondence with the companies therein named, except in Baltimore, where our own attorney examiners investigated the facts and obtained those from the records of the companies.

Acting Chairman KING. Is that a very large report?

Mr. BAUGHMAN. Just for the files.

Acting Chairman KING. It may be received.

(The report of the Federal Trade Commission on Concentration of Control Over Sales and Distribution of Milk and Dairy Products was marked "Exhibit No. 370" and is included in the appendix on p. 3135.)¹

Mr. BALLINGER. We are now going to examine the monopolistic practices in the poultry industry, and I want to call Mr. Peterson to the witness stand.

Acting Chairman KING. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, in these proceedings, so help you God?

Mr. PETERSON. I do.

TESTIMONY OF LEROY PETERSON, FORMER CODE ADMINISTRATOR FOR THE POULTRY INDUSTRY, NEW YORK CITY

MONOPOLISTIC PRACTICES IN THE POULTRY INDUSTRY

Mr. PETERSON. Leroy Peterson.

Dr. HOWE. What is your present position?

Mr. PETERSON. Employed by the Federal Government in New York City.

Dr. HOWE. Prior to that?

Mr. PETERSON. Employed by the Federal Government in Washington in the Resettlement Administration.

Dr. HOWE. And prior to that?

Mr. PETERSON. I was the code supervisor for the live poultry industry in the New York City area.

¹"A Rebuttal to the Testimony of Officials of National Dairy Products Corporation and The Borden Company" was introduced during hearings held October 24, 1939. It was marked "Exhibit No. 370-A" and is printed, in connection with "Exhibit No. 370," at appendix p. 3194. Testimony of witnesses from National Dairy Products Corporation and The Borden Company begins on p. 2958, *infra*.

Dr. HOWE. You have also been a banker?

Mr. PETERSON. I have.

Dr. HOWE. What company?

Mr. PETERSON. Guaranty Trust Co., Irving National Bank, and the Amalgamated Clothing Workers Bank, for which I was cashier.

Dr. HOWE. You were also in the real-estate business, were you not?

Mr. PETERSON. I have been.

Acting Chairman KING. What position do you now have?

Mr. PETERSON. I am working with the Board of Education and W. P. A. in a rehabilitation project in New York City.

Acting Chairman KING. How long have you been with the W. P. A.?

Mr. PETERSON. About 6 months.

Acting Chairman KING. Are you in what is called the Youth Movement?

Mr. PETERSON. No, sir.

Acting Chairman KING. Proceed.

Dr. HOWE. You were code administrator for the poultry industry in New York City under the A. A. A., as I recall.

Mr. PETERSON. The A. A. A. and N. R. A., a joint code, and the arrangement on which I was made code supervisor was somewhat unusual. The industry and the Department selected me, but the industry agreed I could not be discharged by them but only by Secretary Wallace or the head of the N. R. A.

Acting Secretary KING. You didn't have charge of the *Schechter case* for the Government, did you?

Mr. PETERSON. I did; I developed the original *Schechter case* before it got into other hands.

Dr. HOWE. You were appointed code administrator when?

Mr. PETERSON. In April 1934.

Dr. HOWE. And prior to that you had made some studies of the poultry industry as well as other agricultural commodities in connection with the consumers counsel division, had you not?

Mr. PETERSON. Something over a year.

Dr. HOWE. Now then, Mr. Peterson, you start right in and describe the conditions as you found them in the poultry industry and your own experience. You be your own witness and just tell the story without interruption.

DESCRIPTION OF POULTRY INDUSTRY IN NEW YORK CITY

Mr. PETERSON. I have lived in New York for the last 25 years and had been somewhat familiar with the poultry industry before I became a code supervisor, and I think it might be advisable, if I may, to tell a little of the industry itself, its physical set-up, to give a background to the practices that were inherent in this industry.

Acting Chairman KING. Is this in the past or in the present?

Mr. PETERSON. It is as it exists for the last 10 years and today. It hasn't changed, I believe, physically, in the last 25 years.

Dr. HOWE. I might say, Senator, that the last exhibit is with respect to terminal marketing conditions in New York City.

Mr. PETERSON. The live-poultry industry in New York is a peculiar industry in this respect, that the New York market is the largest market for live poultry in the country. The annual volume

of business is about 200,000,000 pounds, and the dollar volume is something around \$50,000,000. That is the retail price. The consumers of live poultry are predominantly Jewish, followed next by Italian, and interestingly enough by Chinese, and also a rather large number of families who have been born and brought up in the country and who move to New York and who still have a taste for fresh-killed poultry, but the predominant business is done with Jewish people.

Acting Chairman KING. You mean the consumption or sale?

Mr. PETERSON. The sale and consumption. The business, although it is confined to New York City in sales, is definitely interstate in that these chickens which arrive in New York City come from 41 States of the Union, that is to say practically all the States east of the Rocky Mountains. The chickens come into New York City in three ways. In former years they came in entirely by carload lots. Then an express business was built up and now the trucking business has become a large part of the method by which chickens are brought in. At the present time about a quarter or a third of the chickens come into New York from the eastern and contiguous States, and the balance come in by carload lots from States as far west as Missouri and Texas.

The industry has been about the same in the physical sense for many years. It is made up of from 27 to 30 commissionmen. They are located in West Washington Market, which is near Fourteenth Street and the Hudson River. There they rent stalls from the city, have chickens for sale, and maintain their offices.

All the chickens that come in by express and truck come to this terminal, but by far the largest number of chickens come in by carload lots at a terminal at Sixtieth Street and Hudson River, maintained by the New York Central Railroad.

I think it is important to give a little description of the physical lay-out of this place, because it has to do with the situation in which racketeering and monopoly developed. It is a large railroad yard, in which about 100 cars can be sided at one time. There are large open spaces, and extending at one end of the yard are some very large warehouses. These formerly and sometimes now are filled with feed which is sold by service companies, and also contain large numbers of empty coops in which these live chickens are placed.

The industry for many years has had a number of situations develop which give one the impression that it is the kind of industry that any kind of racketeering can prosper in, and it has really a much worse reputation than actually exists. I recall an incident when I was asked to be code supervisor. I went up to the market at Sixtieth Street, went into one of these large warehouses, and a man asked me immediately if I would like to have a bodyguard. Well, it sounded ridiculous and I said of course not. I asked him why. He said, "Well, these big crates have a way of tipping over on people that we don't want around here"—which was a form of intimidation which was common in the industry but which is of really no consequence.

At this Sixtieth Street terminal each morning about 9 o'clock two or three hundred slaughterhouse operators, the buyers of chickens from the commission men, and the commission men assemble in an open space for the making of the market.

In the center of this group, until last year, was a member of a private organization that published information about poultry and produce, and with great shouting and noise and turmoil he would attempt to pick out of the air and the noise what seemed to be the price of 9 or 10 grades of fowl and chicken, and he would announce that that was the buying price for various grades of fowl over the country.

That would instantly be wired over the United States, and that would become the base buying price for chickens throughout the country.

Shortly after I became code supervisor, we found that at certain times of the month large numbers of carloads of third-grade chickens would come into this yard. They came in from various States. We traced their source and we found that those chickens were coming in consigned to one of the market men from the large packers. They were known as throw-offs, or a type of cull, and they were sold a very depressed price. Carloads would come in without much notice and the price would go down considerably.

It happens, of course, when there are 9 or 10 grades of a product and the price is made on one of them, there is usually a relationship between all those grades. We found that from time to time these packer chickens were depressing the market and we had no idea why that was occurring until we had occasion to talk to some hucksters—they call them in the West—who assemble and buy the chickens from farmers and from shippers. We found this interesting fact. About the day, or the day following, that large numbers of chickens would come into the New York market and depress the price, hundreds of buyers for the large packers from Chicago, Kansas City, and St. Louis would move up and down the Mississippi Valley and buy millions of pounds of chickens from the farmers, based on that price, to put into dressed poultry.

In other words, through an interesting connection between a small market in New York for live poultry, producers of chickens throughout the Mississippi Valley were forced to sell their chickens at a price 1 or 2 or 3 cents a pound below what would be the normal price they might get.

That, of course, is not particularly a part of the live-poultry business in New York, but it seemed to be of sufficient importance to mention.

The industry, as I said a moment ago, is made up of about 27 commission men, about 150 to 200 slaughterhouse operators who buy the chickens from the commissionmen, and the slaughter operators who sell in turn to butcher stores, chicken dealers, and so forth, throughout the city. Chicken dealers and butcher stores are not a part of this code, or are not a part of the industry of which I am speaking.

EFFECT OF LABOR UNIONS IN THE POULTRY INDUSTRY

Mr. PETERSON. The industry has been for many years 100 percent unionized. There are three unions in the industry. The teamsters and the handlers of the poultry are members of a teamsters' union and they have an international affiliation. There is what are known as the patent-car men. These cars in which the chickens are brought into the city are called patent cars and there is a union whose sole

function is to unload chickens from the car to the platform, and then another union load the crates into a truck, and still another union hauled them in the trucks to the slaughterhouses, and each of those groups took a substantial fee for their services.

Mr. HINRICHS. Pardon me, it wouldn't be unusual, would it, to have three different occupations, I mean to have three individuals doing these various jobs? Certainly you wouldn't expect a man to pick up a box of chickens and run to the truck with them and then jump on the front seat of the truck and drive away.

Mr. PETERSON. Oh, no; I think probably what is in your mind will be explained as I go on with what I am discussing. I think I see what you have in mind.

There is still another union in the industry which is made up of about 50 or 60 men of the Jewish faith who are known as schochets. They are the men who kill the chickens. They are known sometimes as rabbis. They dress in a costume similar to rabbis, and they also have a union, known as the schochtem union. If there are any people here who disagree with my use of Jewish terms, they will understand.

This union developed into a real monopoly. They set up such standards that only a very small number of men could join it. They finally reached the point where they were receiving \$60 a week for about 30 hours' work. They had great difficulty in finding an international affiliation, and they were anxious to really get into some of the broader A. F. of L. international unions.

A great many of these men, as they finished their work around 12 o'clock, had much time on their hands, and they in turn joined up with Jewish hospitals for the purpose of performing a Jewish rite on males. They had such luck in forming their schochtem union for killing chickens that they formed a union known as mohels. A mohel is a man who performs this rite on Jewish boys. After they formed this union they desired to get an international affiliation. Well, that was somewhat difficult, and they finally were invited to become a local of the International Association of Meat Cutters, which is a national organization.

I am going into some detail about these unions because they are a very integral part of the monopoly which was built up.

Acting Chairman KING. I suppose all those unions collaborated or were integrated.

Mr. PETERSON. Yes; I am coming to that, that they all did integrate very closely with the market men, with the slaughterhouse operators, in order to set up a very tight monopoly.

I want to go into this matter somewhat of the unions because in my opinion, the success or failure of a union is almost entirely determined by the type of its leadership. At the present moment all the leaders of these unions are in Sing Sing. They happen to be at this moment. During the period in which we were operating the code these men were actually running their unions.

Acting Chairman KING. They have been succeeded by others, I suppose.

Mr. PETERSON. But of not quite the same caliber.

In order to give you a little picture of the type of men who are operating these unions, because I think that is very important, I might just tell one incident.

You probably recognize the name of Arthur Herbert, known as "Tootsie" Herbert, one of the leaders in the teamsters' union. He is a capable man; he organized well, he managed to get a 100 percent union, he got \$47 a week for his men for a 40-hour week. But many of us thought that his prime interest wasn't in the union activities.

During the period of the code he was about to be returned to a Federal jail for violation of a consent decree which Mr. Rice,¹ of the Department of Justice, took care of. And the day before he was to go to jail he happened to come in to see us to discuss the matter of his union, and so on. I would certainly say that the unions gave us full cooperation in the operation of our code, and we were on friendly terms with all of these men, and I said, "Well, Mr. Herbert, you shouldn't be sorry about going to jail, because a lot of good labor leaders have gone to jail in their time."

"Well," he said, "who, for instance?"

The first name that came to my mind was Eugene Debs. I said, "Mr. Debs went to jail."

He said, "He's a damned radical."

I bring that out because I want to get into your mind the attitude of these union leaders as to their function.

It might, at this point, be interesting to state, and you will recall from the daily papers, that on the trial which Mr. Dewey was carrying on in New York recently, the first trial against Mr. Hines was declared a mistrial by Judge Pecora because the poultry industry was mentioned—even mentioned. There is nothing further in that except many of us in New York felt that there was a definite tieup between the unions, the service agencies, politicians, and so forth, and I would like to bring that out in connection with another union.

The patent-car men were the men who were hired to take the chickens out of the cars and put them in coops. You may feel that I am going afield, but these points do tie in. Men in Sing Sing and Auburn Prison in New York State, in order to get on probation or parole, must have a job to go to when they get out. Many times these men are friends of politicians; and in order that a politician may get a man out of jail, he must have a job for him, and the patent-car men's union was made up almost entirely of men who are arranged to be taken out of prison and allowed to unload a car or two a week so that they could tell the parole commission that these men had jobs and there were about 300 of those men who unloaded one or two cars a week, who got \$5 or \$10 a week, and the rest of the time no one knows what they did, but every one of them had a long jail sentence. That union is still operating in New York City.

All these chickens that come into New York City—it is true now and has been all the time—are not graded. They are bought by hucksters and by commissionmen over the country and come in in cars or in trucks, and are sold through the slaughterhouses directly to the chicken markets, and then it is entirely up to a housewife to be able to select a good, fresh-killed chicken. There is no grading in the industry. That has brought some very severe evils which are, I believe, a little bit too technical and are really not of importance to bring in, except that one of the clauses of the code was to establish what we called straight killing. It meant that if persons bought chickens, a chicken dealer bought chickens, he must buy a coop or half a coop. He couldn't select them. We felt that by allowing people to select out

¹ Walter Rice, Special Assistant to the Attorney General.

of a coop a buyer would feel all these chickens and handle them pretty roughly; by the time 10 buyers had gone over a chicken pretty thoroughly that chicken became a cull. These culls were not salable so the business agents of the union would take these culls for themselves.

At the end of the day these fellows would then take a couple of coops of these culls which would be worth 10 or 15 or 20 dollars, out to slaughterhouse operators who dealt exclusively in culls; they would have them killed in any manner they saw fit, and then they would manage to work them back into the retail trade. That is another type of the dishonest practices that were allowed to go on in the industry.

Acting Chairman KING. Do those practices exist today and do they promise continuation? The reason I ask is, I want to learn whether or not this committee is looking at conditions as exist today and prospectively, or whether we are holding a sort of post mortem over conditions in this poultry industry.

Mr. PETERSON. I am trying to state here conditions as they exist today. I would say definitely that some of these situations are not as bad as they were, and the situation that I am going to describe now is not as bad now as it was some time previous.

PRACTICES TENDING TO CREATE A MONOPOLY IN THE POULTRY MARKET

Acting Chairman KING. The contention of you and your associates is that the practices there tend to monopoly, or are a monopoly?

Mr. PETERSON. Yes, sir.

Acting Chairman KING. And that the public suffer by reason of those monopolistic and unfair practices. Is that the contention?

Mr. PETERSON. Yes, sir; that is. There is in addition to the people in the industry that I have mentioned two service companies, one called the New York Trucking Co., another called the New York Coop Co. The New York Trucking Co. have an exclusive privilege of hauling all the chickens that come into the New York market, and they furnish all the coops.

Acting Chairman KING. How did they get that exclusive right?

Mr. PETERSON. It was given them by the 27 commission men at the West Washington Market. They have held that for many, many years, and that has been one of the severest incriminations of the industry. Because of the exorbitant charges for coops—and I might go into that just a bit—this still exists.

The New York Trucking Co. charge a certain fixed price per coop for every chicken that comes in New York in carload lot, whether they haul it or not. They then charge an additional price for every coop they do haul. They also charge a certain price for the use of a coop, whether it is used or not, and then an additional price for those they do use. It seems fantastic, but it actually exists.

What that means in dollars and cents is that all those charges are put back against the commission man and he, in turn, charges all those charges back against the shipper, who is in turn, the producer. In other words, through the connivance of the commission men, the unions, the slaughterhouse operators, and these two service agencies, the producers for years and years and years have been mulcted out of hundreds of thousands of dollars a year which has been divided up among this group and charged back against the producer.

Acting Chairman KING. Have not the State or municipal authorities, under municipal or State laws, carried on an investigation and instituted proceedings to terminate such evil practices?

Mr. PETERSON. I think every law-enforcement agency in New York City, the State of New York, and the Federal Government that has jurisdiction, has taken action, and from time to time they manage to obtain a little help for the producer; but some of these practices still exist, and if any of you have occasion to visit Sixtieth Street and Hudson River any morning you will see these things actually in operation.

Mr. BERGE. The same coop is used again and again, isn't it?

Mr. PETERSON. It is.

Mr. BERGE. They are leased, are they not, from some company?

Mr. PETERSON. The New York Coop Co.

Mr. BERGE. What is cost of a coop?

Mr. PETERSON. Well, they are a large, heavy coop; they weigh about 100 pounds. The actual cost is about \$3.

Mr. BERGE. What do they rent for?

Mr. PETERSON. The figure now, I think, is 65 cents, and they can use them from 30 to 40 times. They maintain them, however; they have to keep them in repair, and when a slaughterhouse operator returns a coop for which he pays nothing, he gets 20 cents, and that comes out of the producer.

Mr. BERGE. Well, they pay a pretty good rate of return on the investment, though, apparently about \$20. A coop makes about \$20, possibly, during its life.

Mr. PETERSON. I should say that—not as much now as it formerly did. The New York Coop Co. and the New York Trucking Co., on the basis of investigations made by the Department of Justice, were found to make a very substantial profit in this business.

Mr. BERGE. I was under the impression they could be used a good deal more than that, several hundred times, but I may be wrong.

Mr. PETERSON. Not that often. They are wooden and they are not treated very carefully and they do break.

Acting Chairman KING. Did the Federal Government or the State under State law bring injunction proceedings against these combinations?

Mr. PETERSON. They did.

Acting Chairman KING. And I suppose decrees were entered enjoining them from continuing these practices violative of Federal or State law or both.

Mr. PETERSON. Yes, sir.

Acting Chairman KING. Have any of those decrees been enforced?

Mr. PETERSON. They have; and various people of the industry have gone to Sing Sing. They come out again and they go back. Arthur, Herbert, I think, has been in Sing Sing three times now.

Mr. BERGE. Wasn't there a criminal suit under the antitrust laws against some of these people a few years ago?

Mr. PETERSON. Yes; against price fixing.

Acting Chairman KING. Do you mean to confess that municipal, State, and Federal authorities are impotent to deal with this monopoly which is so injurious to the producers of chickens throughout the United States?

Mr. PETERSON. I wouldn't like to leave the impression that it is impossible. However, there is still a great possibility for improvement in that industry. The very nature of the industry is that it is dealing in a perishable product in which there is a tremendous possibility for quick profit or quick loss.

A slaughterhouse operator I saw, who used to have a very small shop when I was there, had a beautiful new car and seemed to be very prosperous. I said, "What has happened?"

"Well," he said, "recently we have a strike in the industry." By "strike" I do not mean a labor strike. They don't have labor strikes. They are mostly strikes between slaughterhouse operators, butchers, and commission men, and so on. He said, "I didn't join up with them this time," and on an investment of \$2,000 in his business he made \$1,000 a week clear profit, net profit, over a great many weeks. For years that man made an income of \$50 or \$60 a week out of the business. And then, of course, there have been these unusual combinations of a 100-percent organized industry with definitely dishonest labor leaders conniving with commission men, who, in truth, are not commission men at all but who maintain buying agencies in the West where they really own the chickens, and slaughterhouse operators who come in and out of a business several times a year.

The *Schechter case*, which you mentioned, Senator: The Schechters, five brothers, have failed, I suppose, 15 times in that industry. They make a settlement of 20 cents on the dollar, and the next day they are back in business again. One really must understand the people, the nature of the business, to understand how this sort of thing can go on.

The basic thing that I would like to bring out is that it is possible in the live-poultry industry in New York City for commission men, slaughterhouse operators, that is the merchants of the business, to connive with dishonest labor leaders, to form a monopoly; it is possible, of course, that that might happen in any other type of industry, and during the period in which they could hold this monopoly they could put the price up 3 or 4 cents a pound. That, of course, sounds something like 1 cent a quart for milk, but on a volume of 200,000,000 pounds, that is a real item.

I might go just a moment into the question of price. A fancy Indiana fowl, which is supposed to be one of the best that comes out—it doesn't necessarily come from Indiana—sells in that area for 13 cents a pound. The huckster who picks them up from the farmer, if this is a strictly commission business, gets 1 cent; loading into the car at the point of shipment costs a cent a pound. The freight, plus commission, plus handling charges, runs up to 4½ cents a pound. That is all these trucking and cooping activities. It is then sold by the commission man to the slaughterhouse operator for 19 cents a pound. We have accurate figures on slaughterhouse operations, and it is just a clean-cut and just as definite as the pasteurization of milk. It is a fixed thing and it is 4 cents a pound. A man can't operate on less than that and many of them go way above it.

He then sells the chicken to a chicken store and he, in turn, sells it to the consumer for from 27 to 30 cents a pound. The mark-up, then, runs from 13 cents to the producer to 30 cents to the housewife.

Acting Chairman KING. Thirteen cents that the producer gets, and the consumer pays what?

Mr. PETERSON. From 27 to 30 cents.

Dr. THORP. May I ask whether these various activities are controlled from the point of view of the entrance of new people into the activity; in other words, you spoke of 27 commission men, I believe. Would it be difficult for another individual to enter into the commission business?

Mr. PETERSON. It is very difficult; and it is interesting that some of these present commission men are the second and third generation. You recall, maybe some of you gentlemen, that back in 1914 a man by the name of Baff was murdered in West Washington Market. His son and grandson are now in the business. It is very difficult for a new man to come in. One of the most successful commission merchants, however, now in West Washington Market was formerly a business agent for the Teamsters Union, and he is now one of the largest operators.

Acting Chairman KING. I suppose he would have to conform to the practices of those various unions which are all integrated.

Mr. PETERSON. He helped set up those practices.

Acting Chairman KING. He had to get the consent of the Truckmen's Union and those other three or four unions that you have described?

Mr. PETERSON. That is right.

Mr. HINRICHs. Pardon me; is that a correct conception of the function of the unions in this picture? In order to come into the commission business I gather that a man needs either a license or a bodyguard; I don't know which, do you?

Mr. PETERSON. He doesn't need a bodyguard. I would like to diffuse your mind of that. There is none of that sort of thing going on now.

Mr. HINRICHs. Any man is free to go down on that pier as a commission merchant who thinks there is a living in it?

Mr. PETERSON. Using their term, if he can "muscle in." It is pretty difficult to work in.

Mr. HINRICHs. Will you be a little more explicit on what the function of the union is in that situation? Does the union have any interest in keeping an additional commission merchant from coming onto the dock?

Mr. PETERSON. No. It doesn't make any difference to them.

Mr. HINRICHs. The relationship of the union has to do with, among other things, for example, the moving of the chickens from the dock where they are received to the slaughterhouse.

Mr. PETERSON. That is right.

Mr. HINRICHs. And the commission merchants have found that it is a convenient device for making sure of their exclusive control if they can negotiate a closed-shop agreement in return for some limitation on the handling of chickens from the dock to slaughterhouses. Is that the essential function?

Mr. PETERSON. Yes. If a new commission man or a new slaughterhouse operator comes into the business, they immediately organize his shop and he signs an agreement and he cannot hire outsiders or cannot move poultry; he cannot do anything with poultry unless all the unions are integrated in his plant.

Mr. HINRICHs. You don't object to the fact that these men are organized?

Mr. PETERSON. Not the slightest.

Mr. HINRICHs. In fact, you think they should be organized?

Mr. PETERSON. I do; since it is the law of the land.

Acting Chairman KING. It isn't the law that they shall be.

Mr. PETERSON. That they are permitted to be.

Mr. HINRICHs. But essentially this is a case of being used to carry out the purposes of a group that is in a position to make a rather large profit by its control at that bottleneck.

Mr. PETERSON. That is right. The union men with dishonest leadership have been used to take the place of—if I may be permitted to say it, in certain types of industry—extremely shrewd lawyers, and in other industries of gangsters, to enforce whatever thing they wanted to do to either violate the law or get around the law.

Mr. HINRICHs. But the union doesn't have any initiative in determining whether a man should be a commission man or not?

Mr. PETERSON. Not the slightest.

Acting Chairman KING. But could he succeed in getting truckers to handle his products without the consent of those unions?

Mr. PETERSON. Well, I would put it this way, Senator: He couldn't even enter into the business unless the other commission men told the leaders of the union that they would like to have him in.

Now, I purposely left out some of the more flagrant things that have gone into this industry, because many of them no longer exist, but I would like to specifically state that within the last 10 years this situation has existed. It no longer exists, but I would like to mention it because it could happen any time again in this industry or in another.

Acting Chairman KING. Were you familiar with the building industry at the time when Mr. Samuel Untermyer prosecuted the labor leaders and sent a number of them to jail?

Mr. PETERSON. Yes, sir.

Acting Chairman KING. Is the situation here with these unions something similar to the building-trade union, as their organization was developed, during the trial of those cases?

Mr. PETERSON. I would say not, because in the poultry industry none of these practices which are pinned and laid to the unions could possibly exist without the connivance of the merchants.

Acting Chairman KING. You mean the commission merchants.

Mr. PETERSON. The commission merchants are really at the heart of the situation and they can decide whether any of these practices shall go on or not.

Acting Chairman KING. Proceed.

CONNIVANCE TO CREATE A MONOPOLY

Mr. PETERSON. Some years ago this industry reached its peak in its monopoly practices.

At that time the unions were strongly organized. There was a definite number of commission men; and they were forcing the slaughterhouse operators to buy chickens from them only. And they gradually kept putting the price up and up. The consumer couldn't pay, so the slaughterhouse operator attempted to buy chickens out of New York City. This is all on the Department of Justice records. The other two terminals are in Newark and Philadelphia, where

these slaughterhouse operators could buy chickens and bring them in by trucks.

Individuals—it has never been quite definitely confirmed as to who they were—would meet these trucks on the way over through the meadows in Jersey City and over across the Hudson and actually tip the trucks over into the meadows; they would find that their engines were filled with emery; they would find if they left their chickens for a little while, within a few hours all the chickens would die, and after a post mortem they would find that these chickens were fed sand and gravel and plaster of paris. Plaster of paris, if a chicken eats it, will harden in its stomach and it cannot make droppings, and therefore unless it is killed in 2 or 3 hours it will die.

All those things were definitely practiced as common things in order to continue this monopoly, and this is also a definite matter of record. At least 10 of these 12 individuals connected with this industry in some way or other over a period of the last 5 years have been found murdered. They are people of no great importance in the industry—I am only stating that as a fact, it is a matter of record—but the general impression was that they knew too much about something. That is all out now. I want to make it clear that those things do not exist now. At the height of the monopoly it was simply impossible for anybody to get a live chicken in New York City unless he went through this procedure. It even got to this point, that the unions and the commission men and the group were so strong that if a slaughterhouse operator wanted to buy chicken feed to feed his chickens from the time he bought them until they were killed, he couldn't buy that feed from anybody else except the New York Feed Co., which was also a part of this service group, and if they didn't buy the feed from this company at an exorbitant price, for some reason or other the next day a strike would be called in their plant. I believe the chicken industry was the first to develop the sit-down strike. As long as 10 years ago these men would simply stop work and if the manager would ask them, they would say, "You'd better call up Herbert," and Herbert would say, "Don't you need a little feed today?" "Yes; I think I do." "Then put the men on," and the men would go back to work.

That is all out now, but that did exist so that they had an absolutely 100 percent tight monopoly until the city government and the State government or the Federal Department of Justice would step in. Each time they would step in these conditions would stop until some new method was devised, and then for a short time they would be set up again and the price would go up 3 or 4 cents a pound and there would be a lot of money made.

Recently, when Arthur Herbert was brought before Judge Pecora for various charges, one was embezzling union funds, and he confessed on the stand that he made an assessment of his union of \$50 a man, which they paid, and in addition the actual costs of the prosecution were paid by the commission men. I think that is important.

Acting Chairman KING. For his defense?

Mr. PETERSON. To protect him. The actual money paid for his defense came from the commission men, and at the time of the investigation a year or so ago he turned over a check of some twenty-five thousand dollars for restitution of the funds to go back that he had

taken from the union. He nevertheless received, I think, about 2 years.

Mr. **BERGE**. Two years ago Congress put poultry markets within the Packers and Stockyards Act and gave the Secretary certain regulatory powers. I don't just recall how far they go, but has that made any difference?

Mr. **PETERSON**. It has made some difference. There is a man by the name of Walker assigned by the Department of Agriculture now in New York, but I would say that until a number of definite recommendations as to the physical handling of these chickens are made this situation will always be a chaotic one and one that various law-enforcing agencies will have to continually watch. The very nature of the business leads to this type of thing.

Mr. **BERGE**. It is rather curious, though, that it develops differently from the stockyards where livestock is sold—cattle and hogs; they are a rather high type of businessmen. I don't see why the marketing of cattle and hogs should be fundamentally different from the marketing of chickens in New York, except that it started differently.

Mr. **PETERSON**. I would say if any of you gentlemen would meet any of these commission men you would find them socially most charming people.

Mr. **BERGE**. I didn't mean that, because I have had some experience with the Packers and Stockyards Act in the Chicago-Kansas City-Omaha stockyards. We have had litigation against those people, and I have been on the other side. But, according to common standards, they are high-grade businessmen. I am not talking about their social lives. Of course, there is a sort of professional aspect about their work.

Mr. **PETERSON**. This may be digressing, but sometimes one wonders what one means by a high-grade businessman and what practices he may be permitted to carry on and still be a high-grade businessman if he is in a very severely competitive system.

Dr. **THORP**. Mr. Peterson, is there any control over the quantity of chickens that would come to this market?

Mr. **PETERSON**. No.

Dr. **THORP**. How is it possible, therefore, or is it possible, to control the price to the consumer, or does that have to vary according to the number of chickens which must be moved along through, or are some chickens just deliberately removed from the market?

Mr. **PETERSON**. When we were operating the code we attempted to—and this was entirely at the request of the industry—get listings of cars of all chickens that would come in during that succeeding week. We would only have 5 days in which they could unload. That was simply done to get some approximation of the supply so that there would be a fair chance for the supply and demand to work out a fair price. The price changes practically every day, at least it is remade every day; it may be the same, but it is remade, and I would say right now with the elimination of the Urner-Barry Co. as arbiter of the price, the supply and demand principle work fairly well, because it was found that without any artificial stimulation either one way or another, if they made a bad market, they were bound to lose; if they made it too high, they had to carry their chickens over; if they made it too low, they had a difficult time reporting to the producer of the chickens.

Dr. THORP. Then would you say that the thing that happens is not so much that the consumer has to pay a higher price as that the pressure comes on the purchase price so that the distribution of the consumer's payment between the operators in the market and the farmer means that the farmer gets less because of these various monopolistic practices which give more control than the distribution process allows?

Mr. PETERSON. The producer was the man who suffered all these years more than the consumer. I might explain this: that it is compulsory on the part of all orthodox Jewish people to use fresh-killed poultry, and it is the only kind they can use, so that if the price is too high they just don't buy it, but if the price comes down there is a tremendous increase in purchases. If there is a large supply that comes in from various sources and it depresses the price, it is never very difficult to sell all of those because many consumers have come immediately into the market who would otherwise stay away.

Dr. THORP. You meant that if they used poultry, it was compulsory that it be fresh killed, not that they have to take poultry. They have a choice.

Mr. PETERSON. Of course.

Mr. DAVIS. Mr. Peterson, in describing the method by which the price is arrived at each day, I understood you to say that there was an apparent auction and amidst great confusion the auctioneer would announce the price of the different grades for that day.

Mr. PETERSON. It wasn't an auction. It was a little different than that. The slaughter house operator, that is to say the buyer, and there were 200 of those and about 20 sellers, would all get around together, walk up and look at the chickens and look at the cars and then go off in a corner and the statement made by the Urner-Barry Co. was that on the strength of one or two or more bona fide sales between a buyer and a seller at a price he would set that as the price for that day. When we were in the code, which is now some years ago, I attended that market every day, and from time to time we felt that certain commission men happened to have a number of cars of a certain kind of chickens, we would find that the price, from our own judgment—and after all it is a matter of judgment—would be maybe a cent or so higher than it seemingly ought to be. So we instituted a practice of asking the buyer, that is the slaughterhouse operator, if he really did make that sale, at what price, and since we were on very friendly terms with most of these fellows they would often admit that that was what was known in the trade as a monkey sale, that was simply a request on the part of the commission man to say that he was going to buy those but in reality he would pay a cent or so less so the commission merchant could step up the price to all the other people.

I don't know whether I have made myself clear; it is a practice that was engaged in.

Mr. DAVIS. That is what I wanted to get at. I understood from your description that the fixation of prices was largely a "phony" proposition.

Mr. PETERSON. Not always. I am sorry if I gave that impression. Many times it was a perfectly sound price based on supply and demand, but other times it would be a fixed price, either up or down, depending on which commission merchant happened to have either more or less of a certain kind of chicken.

Acting Chairman KING. I understood you to say in your direct testimony that some person in that group would stand up and make a statement, apparently after having secretly conferred with some commission merchant, and that would be the price. Wasn't it an auction?

Mr. PETERSON. He would listen to the conversations of commission men with buyers, of sellers with buyers; it was not secret—well, sometimes it was; yes, sometimes those conversations were secret. As code supervisor, I would have to walk pretty fast sometimes to keep up with those fellows and listen to what they were saying, to see what really was happening.

Mr. DAVIS. What was the function or official position of this man to whom you refer who would announce the price that was then announced locally and throughout the country?

Mr. PETERSON. He had no official position in the industry, and at the time of the passage of the amendment to the Packers and Stock Yards Act, or shortly after that, he disappeared from the scene. Now, the price is made between the buyer and the seller and in mutual agreement they say today the price will be so and so.

Acting Chairman KING. Do the commission merchants have representatives out in the sections from which the chickens are produced?

Mr. PETERSON. Yes.

Acting Chairman KING. Did you discover during the code and since then that an effort was made to restrict the number of chickens which were to be shipped or to discourage the producers of chickens from shipping and thus lower the price in the beginning when the producers of the chickens arranged to ship them to the market?

Mr. PETERSON. Once in a while the commission merchant would attempt to do that, but there are so many factors over which he had no control that often he would lose more money than he made, because if he happened to say, "Well, I will buy a certain number of Indiana fowl and get them into the market quietly," maybe two other commission men would have done the same thing, and he might have paid a half a cent a pound more. In a sense, it is a very difficult market to give any guesses as to what might happen in any week or day, because there is no control over the chickens that go into the market.

Acting Chairman KING. Do you have anything to do with the marketing of butter and cheese and eggs?

Mr. PETERSON. Nothing whatever; entirely live poultry.

Acting Chairman KING. Anything else?

Mr. BALLINGER. Nothing else.

(The witness, Mr. Leroy Peterson, was excused.)

Acting Chairman KING. Next witness.

Mr. BALLINGER. That is about all we care to put on today. However, tomorrow morning, Mr. Chairman, we have asked Senator O'Mahoney to permit us to put on a witness from New York, Mr. Amen,¹ to discuss conditions in the terminal market in New York City.

Acting Chairman KING. If there is nothing further, we stand adjourned until tomorrow at 10 o'clock.

(Whereupon, at 4:30 p. m., a recess was taken until Saturday, March 11, 1939, at 10 a. m.)

¹ Mr. John H. Amen, Special Assistant to the Attorney General of the State of New York. He did not appear before the Committee.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

SATURDAY, MARCH 11, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:20 a. m., pursuant to adjournment on Friday, March 10, 1939; in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney (chairman) and King; Representative Williams; Messrs. O'Connell and Hinrichs.

Present also: Thomas C. Blaisdell, Jr., representing Securities and Exchange Commission; Willis J. Ballinger, director of studies and economic adviser to Federal Trade Commission; and Dr. Frederic Howe, former consumers' counsel, Agricultural Adjustment Administration.

The CHAIRMAN. Let me say to those who have gathered that the Trade Commission advises me this morning that one of the witnesses which it was proposed to put on the stand today for some reason or other has been unable to appear, and it is deemed inadvisable to proceed without him.¹ If there is no objection on the part of members of the committee, and I assume there will be none, we will not call the meeting together today and I will call the committee again on Tuesday morning at 10 o'clock.

(Whereupon, at 10:21 a. m., an adjournment was taken until Tuesday, March 14, 1939, at 10 a. m.)

¹ See footnote 1 on preceding page.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

MONDAY, MAY 1, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:20 a. m., pursuant to adjournment on March 17, 1939, in Room 224, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney (chairman), Representatives Williams and Reece; Messrs. Ferguson; Davis; O'Connell; Patterson; and Henderson.

Present also: Edward Eicher, representing Securities and Exchange Commission; Milton Katz, representing Department of Justice; Federal Trade Commissioner Charles H. March; Willis J. Ballinger, director of studies and economic advisor to the Federal Trade Commissioner; Dr. Frederick C. Howe, representing Department of Agriculture; Andrew Tackett and R. A. Putzier, attorney examiners; Kemper Simpson, economist; and Wilbur Baughman, attorney, Federal Trade Commission.

The CHAIRMAN. Will the committee please come to order?

The committee has been called this morning for the purpose of hearing statements which have been offered on behalf of certain individuals and corporations and associations in the milk business as a whole. After the conclusion of the hearings presented by the Federal Trade Commission some weeks ago, the chairman of the committee and the executive secretary received numerous telegrams and telephone calls and letters from persons who felt that the story of milk had not been told as adequately as they would like to have it told. This committee being in search of information and as much fact as it can develop was very glad to assure those who communicated with it that an opportunity would be provided for them to appear before the committee and present their statement.

We are not engaged in any controversy. That statement has been made over and over again by the chairman and by others on behalf of this committee. Now we are interested only in developing the facts with respect to industrial and economic organizations, in the hope of laying the basis for a better solution than has been developed as yet of all our economic problems.

Now, in conformity with the practice which has been followed in the past, each witness will be required, of course, to testify under oath. The first witness this morning speaks on behalf of the producers' association of Michigan, Mr. Beach. Is he here present? Will you come forward, Mr. Beach.

Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BEACH. I do.

TESTIMONY OF BERNIE F. BEACH, SECRETARY-MANAGER, MICHIGAN MILK PRODUCERS' ASSOCIATION, DETROIT, MICHIGAN

The CHAIRMAN. Will you be good enough to state your name?

Mr. BEACH. Bernie F. Beach.

The CHAIRMAN. Where do you reside?

Mr. BEACH. My home is in Pontiac, Mich. My business address is in Detroit, Mich., and I am secretary-manager of the Michigan Milk Producers' Association.

The CHAIRMAN. What is that association?

Mr. BEACH. Would you wish to have me read a statement relative to that, Mr. Chairman? Or do you prefer that I answer?

The CHAIRMAN. I thought we would develop some of these preliminaries. Please state what this association is.

FORMATION AND PURPOSES OF MICHIGAN MILK PRODUCERS' ASSOCIATION

Mr. BEACH. It is a producers' organization of dairymen, organized in August 1916, and it is comprised of approximately 80 to 85 percent of the producers around the principal market of Michigan, which is Detroit, and then other groups of producers that are around various other cities in Michigan.

The CHAIRMAN. How was it formed?

Mr. BEACH. The formation of it is by means of a membership contract between the individual member and the organization. The individual membership contract specifies that the association is the selling agent for the individual member.

The CHAIRMAN. You speak of a contract between the individual and the organization. Now how is the organization formed?

Mr. BEACH. Well, that goes to make up its—it is a purely cooperative farmer organization.

The CHAIRMAN. Is it a corporation?

Mr. BEACH. Yes; it is a corporation.

The CHAIRMAN. Charter issued by what State?

Mr. BEACH. By the State of Michigan.

The CHAIRMAN. Have you a copy of the charter?

Mr. BEACH. I believe that I have a copy out here. I am not real positive about that. I know I have the constitution and bylaws here.

The CHAIRMAN. Please leave a copy of the charter with the committee. If you don't have it with you, file it later, please. And you may also file a copy of the constitution and bylaws.

Mr. BEACH. I will be glad to file copies of the contract; also membership agreement.¹

The CHAIRMAN. If you please; yes. Now, then, you have prepared a written statement which has been submitted to the committee?

Mr. BEACH. Yes; I have; but I understood that this meeting was going to be held at an earlier date and that statement was prepared rather hurriedly, which directly was in reply to some of the questions that were raised or some of the statements that were made by a previous witness, and it seemed to me that that did not fit the requirements of the committee, and I feel that after your announce-

¹ Mr. Beach later submitted a copy of the articles of association of the Michigan Milk Producers' Association, which was introduced during hearings held May 26, 1939. It was marked "Exhibit No. 536" and is included in the appendix on p. 3279.

ment this morning that it certainly did not. So I did prepare what I felt was a statement more nearly in line with the things that you would prefer to have before you on the broader aspects of the cooperative, which I represent.

The CHAIRMAN. But you did not submit that other statement to any member of the committee?

Mr. BEACH. No; I did not. It is not a controversial one; I will say that.

The CHAIRMAN. Well, generally it is the rule of the committee not to permit witnesses to read statements, because ordinarily it takes more time than necessary, and we would prefer to have you summarize the situation as you see it.

Mr. BEACH. I will be very glad to do it that way.

The CHAIRMAN. You may file the other statement with the committee, but I think it will be preferable if you just summarize it.

Mr. BEACH. I have briefly spoken about the set-up of the Michigan Milk Producers' Association. The financing of the association is through what is called membership dues, consisting of 1 cent per hundredweight if it is on manufactured milk only, 2 cents per hundredweight if it is on milk like in the Detroit market; or special services are performed as in some of the smaller markets, it might be higher than that if authorized by the producers themselves. The purposes behind the organization are that the dairymen recognize that one individual producer, previous to the organization being formed, was oftentimes played against another individual that was selling milk in the same market.

The CHAIRMAN. Played against another?

Mr. BEACH. That's right.

The CHAIRMAN. By whom?

Mr. BEACH. Usually by the milk buyer and/or groups of producers were played against another group of producers, and therefore it brought home to them the necessity of having their organization through which they sold their milk collectively.

The matter of establishment of price between the organization and the buyers of milk is on a bargaining basis. The association is what is called a bargaining association; they choose from among their membership delegates based upon 2 delegates for the first 50 members and 1 for each additional 50 or fraction thereof in any one of the locals. Those delegates then choose what they call a sales committee. It makes a large selling committee in the market of Detroit particularly of about 35 to 40 men, but there are natural advantages of having that large group of producers act upon such a selling committee. They meet with a milk buyer from time to time and endeavor to agree with the milk buyer as to the price and the plan upon which they will sell milk to the milk buyers on behalf of the membership which they represent. They sometimes are unable to agree, and under those circumstances arbitration has been resorted to, and the Detroit market, primarily, there never has been withholding of milk by the members of the organization. Arbitration has been the way out of some of the difficulties that they have found themselves in rather than to have a milk strike.

Among other things which the association does and which are extremely important, is to guarantee a market to every member of the association. In other words, there is no member of the organization

that finds himself without a market in 10 days or 15 days from a given time or at any time. They feel that every member of the organization has as much of a right to have his milk market guaranteed to him as any other member has. That is accomplished very largely by a pooling plan which is used in the market whereby, if a group of producers or an individual producer, for some reason or other, but usually it is by groups, his milk has to be manufactured or the milk from a group of them has to be manufactured, then those who remain in the market at that time have a certain deduction made to make up the difference between the price on manufactured milk and the average price that would be paid to all producers. In other words, they share and share alike in the milk markets, and that has been an established custom for a long number of years in the principal markets of the State of Michigan—all of those in which the association operates.

The association also guarantees the pay for the milk. This is purely, you might say, a mutual cooperative plan whereby, if 200 buyers are sold to, as is about the case, and one buyer to whom the milk goes fails to pay for his milk for some reason or other, possibly going into bankruptcy—and naturally we have quite a few cases of that kind—those individual producers do not suffer on account of that. They are paid by the association out of the reserves that are created from the membership dues of 2 cents per hundred, as it is in most cases.

The CHAIRMAN. How do you determine the number of members?

Mr. BEACH. By actual number of contracts in existence between the members themselves and his organization. In other words, we can count at any time the number of contracts that are in effect, membership contracts or membership applications, as we call them, and are shipping milk.

The CHAIRMAN. Then to join this cooperative it is necessary for a producer to file an application?

Mr. BEACH. He files an application for membership; yes.

The CHAIRMAN. What happens to the application in the ordinary routine?

Mr. BEACH. If he is in a position to deliver his milk to a market or company with whom we deal, where we can guarantee him a market and where we can guarantee to pay for his milk, we accept him. If he should happen to want to sell to a milk distributor where we cannot guarantee to pay for the milk due to the financial condition of the particular buyer, then we have to say to him that we cannot accept a contract unless arrangements can be made to have your milk sold to a company where we feel that we can guarantee to pay for it. That doesn't mean by any means that we are able to avoid losing some money, because in the ordinary course of events milk is paid for on the 15th of the month following the month of delivery, and there are companies that fail to pay rather quickly.

What we do try to do is to obtain security based upon financial statements which we secure from milk buyers from time to time if such financial statements show that such security really should be given.

The CHAIRMAN. Then the number of members which you may accept depends, actually, upon the number of buyers with whom you make contracts.

Mr. BEACH. Well, yes; strictly speaking, I believe you can say that that is true.

The CHAIRMAN. And you make contracts with only those buyers whom you regard to be sufficiently stable to enable you to guarantee the payment to all your members?

Mr. BEACH. That statement is correct. However, we naturally are interested to two things. One is to have as large a percentage of the producers around a certain market members of the organization as it is possible to have. That makes for a better organization, it makes for the perfection of better marketing practices. Therefore, we are interested in another thing, and that is having them first as members and second selling to just as many buyers as we can. We would prefer to sell to all buyers if we can. That is to the advantage of the producer.

The CHAIRMAN. All right. Now, what determines whether or not you can sell to a particular buyer?

Mr. BEACH. Well, there are several different things. From our standpoint, the principal things is, will a buyer buy the milk, will he pay for it in accordance with what we feel is a fair basis and one upon which we are willing to sell to all buyers in that particular market?

The CHAIRMAN. How do you determine what is a fair basis?

Mr. BEACH. I hadn't quit finished; pardon me, Mr. Chairman.

The other thing that is just as important in determining whether or not we sell to him is whether or not the buyer will agree to do that. It takes two to make a bargain on that, and while we may be willing to sell, the buyer may come back and say that he is not willing to pay that price, he can buy cheaper, he is not willing to guarantee that he can pay for the milk, he is not willing to buy upon the basis which we are willing to sell to him, and therefore that might be the limiting factor.

Your other question, Senator?

(The reporter read the chairman's last previous question.)

Mr. BEACH. In determining a fair basis of sale to a milk distributor there are several different things to take into consideration. From the standpoint of the producer, if I were to name my own idea of a proper price arrangement, it is this.

The CHAIRMAN. I don't know that I am interested at the moment in your own idea. I am interested in the basis which is actually used.

Mr. BEACH. Well, it is a bargaining proposition, and in bargaining the supply of milk is taken into consideration from the standpoint of the producer and the demand for it; in other words, in setting forth our arguments we know the supply of milk, we know the demand for milk, we know the cost of producing the milk fairly well, and we use that as a basis, and we use all of the arguments that can be used in an endeavor to get a fair price for the producer and one that will enable him to continue his business, if possible, at a profit.

The CHAIRMAN. Who exercises this judgment, Mr. Beach?

Mr. BEACH. This sales committee of producers, of which I spoke.

The CHAIRMAN. How many members are on that?

Mr. BEACH. Approximately 35—35 to 40. It varies from time to time.

The CHAIRMAN. How often do they meet?

Mr. BEACH. Once per month or oftener. They may meet two or three times per month; they always do meet at least once per month.

The CHAIRMAN. Do you sell to all buyers on the same basis?

Mr. BEACH. Yes; we do.

The CHAIRMAN. There is no variation among the buyers?

Mr. BEACH. No; there is not. Some buyers have slightly different set-ups, but as nearly as we have been able to work out we have the same plan and same price basis in everything, accommodating it to that particular set-up, so they are on the same basis.

The CHAIRMAN. When you determine what the basis of sale is, you require all buyers to meet those terms?

Mr. BEACH. That is right.

The CHAIRMAN. Do you find any difficulty in that?

Mr. BEACH. Yes; we find difficulty in this way: Some buyers don't seem to want to do that, and we have had to break away from some buyers or they have broken away from purchasing milk from the Association because they did not wish to buy upon our terms of sale. That hasn't been in any large quantity, however, but sometimes new buyers come into the market and we are unable to make an arrangement with them. They start comparatively small, are able to get a small amount of milk, and gradually increase that to a larger amount as time goes on.

The CHAIRMAN. Are there any other restrictions that you impose upon the buyers in addition to this one of agreeing to your price?

Mr. BEACH. There is one other; yes, there are at least two more that I think of. One is that we must be privileged to check-test on the butterfat content of the milk that goes to his plant from producers. We even go so far as to insist on the part of some distributors, due to discrepancies found from time to time, on check-testing on all milk that goes into his plant. In other words, he might check against us, but our test is the one on which the farmer must be paid. That is one thing.

Another thing is that we demand the privilege of having a certified public accountant of our choice and under our pay go into his records, so far as the use to which that milk is put is concerned. If we wanted to for credit purposes go into the other angle of his business, because we were of the opinion that we needed to do it in order to be sure that we could continue to get paid for the milk, we might also do that.

Still further, however, if we feel that a distributor may not pay for his milk, we either endeavor to obtain security from him or insist upon cash on delivery.

The CHAIRMAN. Do you impose any regulations with respect to the quantity to be purchased?

Mr. BEACH. Not particularly. If he purchases only that for his fluid milk, then he must pay the fluid-milk price for that which he purchases. In other words, he settles upon a classified basis for his milk. If he purchases a lot of milk in proportion to his fluid-milk sales, then he pays for his fluid-milk sales at the higher price and the remainder of the milk upon the lower price.

The CHAIRMAN. Is the buyer who is under contract to your organization at liberty to buy milk from any other source or any other producer?

Mr. BEACH. Yes; and, in fact, practically all of them do. I put into the exhibit a list of the buyers to whom we sell and stations through which those producers deliver that are not members of the association, and the number of producers at those stations that are selling milk and have been for quite some time that are not members of the association.

The CHAIRMAN. You do not, then, impose any restrictions to the effect that these buyers must purchase all of their milk from your organization?

Mr. BEACH. No; we do not.

The CHAIRMAN. You have a definite contract as to the amount to be purchased?

Mr. BEACH. By the distributor?

The CHAIRMAN. Yes.

Mr. BEACH. No; we do not. That might vary. The distributor largely makes his own choice about the amount that he buys.

The CHAIRMAN. You say largely. Now that is a qualifying phrase.

Mr. BEACH. Yes; just this qualification. We really have two types of distributors. There is the distributor that owns and operates his own receiving station in the country. He does not have quite as much control about the exact amount of milk that he may take, if he owns and operates that receiving station, because he usually takes the amount that comes in there. Then we have the other type of distributor that every day orders the amount that he wants, or that he needs, and we operate certain receiving stations, and he gets from us his daily requirements every day. That is why I had to use the term largely, because it must be modified a little bit, according to the condition. Our general set-up I think it is rather interesting to have brought out, that the general set-up that we use and have used for the last 12 years anyway, is one that is very much in conformity with the plan that is used through the license system of the Agricultural Adjustment Administration. We had in the Detroit market about the fourth, I believe it was, license of those issued by the Agricultural Adjustment Administration, and all the matters of pooling milk which I have spoken of guarantee the market for the milk and equalizing it so that all distributors pay the same for their milk, according to the way it was used; all of those things were incorporated in the license. All of those things had been done before the existence of it, or it went into effect. In other words, the license was put into effect and practically did the same things as had been done before.

Now then——

The CHAIRMAN (interposing). The result, then, I take it, is that all the distributors pay the same price for their milk?

Mr. BEACH. In accordance with the way it is used. That is right, if you take the use.

The CHAIRMAN. And all producers get the same price for their milk?

Mr. BEACH. That is right.

The CHAIRMAN. So that to the extent that the distributor buys his milk and the producer sells his milk, your organization has been successful in, shall I say, stabilizing the price on each hand?

Mr. BEACH. Well, we feel that we have been a strong factor in stabilizing it. I don't mean by that, but what we have some unstabilizing influences over which we have no control.

The CHAIRMAN. You have done away, in other words, with competition among distributors for the milk of the producer and competition among the producers for the market of the distributor?

Mr. BEACH. There are, of course, those people that sell milk to about 12 or 15 milk distributors in the city of Detroit with whom we do not deal so that we are constantly in competition with those.

The CHAIRMAN. But I mean within the——

Mr. BEACH (interposing). Within our own organization that would be true. Now, likewise, after the Federal license was taken on in 1937, I believe it was December 1937, we endeavored to carry out the same arrangements that we have under the terms of the Federal license, practically the same thing; but we are very largely on intrastate market. That being the case there wasn't the possibility of enforcement like there would be with interstate commerce. We had under Michigan Milk Producers' Association in Michigan 11 licenses. In other words, covered not only the Detroit market but we had a separate one for Grand Rapids, Muskegon, Battle Creek, Kalamazoo, Ann Arbor, Bay City, Flint, and Saginaw.

The CHAIRMAN. You spoke a moment ago about the system which you used of having an auditor chosen by you to inspect the books of the distributor and of insisting upon the right to test the milk used.

Mr. BEACH. Butterfat content.

The CHAIRMAN. Now if a distributor may buy from others than your organization, how is it possible for you to conduct this test of butterfat with any accuracy?

Mr. BEACH. Well, you see the only thing that we are interested in is to test the butterfat content of the milk that comes from the farm of a member of our organization, and we test only on the farms of those that are members. The distributor might not properly pay for milk on the proper butterfat basis that came from the man that is not a member, but that is no concern of ours.

The CHAIRMAN. You conduct your test, then, on the farm and not in the processor's quarters?

Mr. BEACH. We test the milk, sample it, and test it as it comes into the plan or into the station, and before the individual's milk loses its identity.

The CHAIRMAN. How about classification?

Mr. BEACH. In what way do you mean? The classification we have? We at the present time only have two classifications—that is fluid milk and the milk that is not sold as fluid milk—it divides itself into those two classifications. The milk that is not sold as fluid milk, a portion of it may go into cream; a large portion of it is manufactured; some of it finding its way into butter and powdered skim milk. That is rather a common thing in the manufacture of milk; manufactured milk goes in a small amount into powdered milk and those byproducts, but very largely it is either in fluid milk or into cream, or into butter, and powder skim milk.

Senator KING. What proportion is fluid and what proportion falls in another category?

Mr. BEACH. I filed that statement, giving that information and must answer the question this way, I would say quickly, in round

numbers 60 percent is fluid milk, particularly at this time of the year, and 40 percent has to be manufactured.

Senator KING. I understood your testimony that the Department of Agriculture assumes the prerogative to license you to do purely intrastate business. Is that true?

Mr. BEACH. The license was given—there was some interstate commerce, but the amount of it we have to admit is very, very small.

Senator KING. Does the Agriculture Department still claim the right to license you to do business?

Mr. BEACH. No; this was in 1933.

Senator KING. That is when Mr. Tugwell's operations were very pervasive, is it not? ¹

Mr. BEACH. Well, I think that I have to say that probably our idea, or the idea of those with whom we have worked within the Government, has been changed somewhat as years go by as to approximately what the set-up on interstate commerce must be, from the standpoint of enforcement.

Senator KING. But under those regulations to which I have referred, was there not a very considerable monopolistic control of the purchasing and of the buying possibly, indeed probably? I have in mind particularly the operations in the California field as to which I made some inquiry, and it would seem to me that those regulations made for monopolistic control. I wasn't quite sure where the monopoly was, whether in the buyer or seller, or in the organization that purchased the milk and made distribution.

Mr. BEACH. I think I get the import of your question. I can well see that you might raise the question. However, there is this situation. The producer of milk, not going into any length as to the necessity of trying to make sure that he has a certain degree of stability in connection with his business, and we could talk a long time about it, which I will not do; however, he has a certain amount of control affecting his business by parties that are not primarily interested in his welfare.

Speaking particularly from the standpoint of the State of Michigan there are those milk buyers that do things that very materially affect and adversely affect the returns that that producer is able to receive and rather than to have the control that affects the producer in the hands of milk buyers that are not sympathetic toward the producer, some that are probably and some that are not, the producer prefers—generally speaking, 95 percent of the producers in Michigan prefer—some type of control whereby there is someone that does not have a purely selfish interest that has something to say about the conditions under which his milk can be sold and under conditions that his milk probably will be bought, and so we in Michigan have become very much interested in a State milk marketing bill, which by the way last Thursday passed our lower house of representatives by a vote of 78 to 9, which is rather indicative of the way they feel that this problem must be approached to try and help save the producers of milk in the State of Michigan, which represents approximately one-third by value to the agriculture in the State.

The CHAIRMAN. Is that the legislation to which you referred in your original statement?

¹ Rexford G. Tugwell, former Administrator of United States Resettlement Administration.

Mr. BEACH. It is.

The CHAIRMAN. Having been suggested or recommended by Governor Murphy's committee?

Mr. BEACH. That is right; that is the legislation that came from the milk-study commission of 1935 that was appointed by ex-Governor Murphy.

The CHAIRMAN. But that recommendation was not made until after Governor Murphy had retired from office?

Mr. BEACH. Well, the work of the committee started, as I recall, last October—September or October; it was not quite complete when Governor Murphy retired from office, but it was changed but very little, however, after he retired from office. It was practically complete before.

The CHAIRMAN. That is to say, the study was complete but the recommendation was not made by Governor Murphy, was it?

Mr. BEACH. Not directly by Governor Murphy, but the same committee held over and the new Governor said he was willing to accept the report of the committee, regardless.

Mr. DAVIS. Did this committee recommend *this* bill?

Mr. BEACH. They did; they recommended *this* bill, and by the way the bill particularly covers the things of which I have been speaking relative to all producers being paid the same, share and share alike, in the market; all distributors paying the same price for milk, and that is the basis of the whole thing.

The CHAIRMAN. Now, when you refer to all producers, do you mean all who are members of your organization, or all producers?

Mr. BEACH. I refer to all producers; I mean all producers, because we feel that even though a man is not a member of our organization he ought to have the same privileges of the market. Maybe we are trying to be too broadminded on that, but that is the only attitude to take, anyway. And we still further feel that if a distributor to whom we do not sell milk is buying and selling milk in the market, that he should be just as much required to comply with those regulations as those to whom we sell; in other words, it must be market wide.

The CHAIRMAN. What type of regulation will be imposed upon the distributor if this bill should be enacted into law?

Mr. BEACH. A few important things, as far as an imposition on the distributor is concerned; first, every distributor in the State of Michigan would be licensed. There would be a board of five headed by the commissioner of agriculture. This board would define a marketing area, probably Detroit would be one marketing area. Then they would hold a hearing at which time all interested parties would come—producers, milk distributors, consumers, and anyone else that might have any interest in the arrangements in that particular market—and after that hearing the board would have the power to determine and issue an order as to the price that should prevail for milk to the producer, and if it were to be sold on a classified basis, they would determine the classes that would prevail. If a base plant were going to be used in the market, that is an individual producer-base plant, it would come in the order as to what type of base plant is to be used and every distributor then would be required to pay upon that basis. Otherwise, he would run the risk, naturally, of having his license revoked.

The CHAIRMAN. How is this board set up?

Mr. BEACH. It is chosen by the governor. As I recall, each individual for 3 years, excepting the commissioner of agriculture who is chairman, and he is chosen at the will of the governor—I don't know just how long.

The CHAIRMAN. Subject to confirmation by the senate?

Mr. BEACH. No, it is not; and it provides now that there would be two producers on that committee or board, and while it was originally set up that there would be two distributors, it was changed by amendment the other day, last Thursday, and now it is one distributor, one consumer; so the total makes two producers, one distributor, one consumer, and the commissioner of agriculture.

The CHAIRMAN. To what extent would the board be free from executive interference, in your judgment?

Mr. BEACH. I don't know. Well, that is always a question, of course, and I cannot answer that, excepting to say that we feel that there is a choice of two things; one is to have unscrupulous practices continually taking hundreds of thousands of dollars out of the producers' pocket year by year, or trust that this will be a fair board set up that will have something to say and will be fair and free from political entanglements, and will—

The CHAIRMAN (interposing). And free from economic entanglements?

Mr. BEACH. That is right, and help to save the agriculture of the State, which needs assistance.

The CHAIRMAN. In other words, your organization endorses this bill, does it?

Mr. BEACH. We do.

The CHAIRMAN. Now, in other words, then, your position is that the state of instability which in your opinion arises from free competition among producers to sell to distributors, and among distributors to buy from producers, has resulted in such abuses and in such poor prices to producers that it is desirable to set up a State board, charged with the power and the responsibility of fixing the price which the distributor must pay and which the producer can get?

Mr. BEACH. I do, absolutely.

Senator KING. That is a return, is it not, to the N. R. A.? Isn't that what you are seeking? Establishment of the N. R. A.? Let me explain a minute so you will understand. And if that, we may do that with milk, may we not do it with potatoes, beets, peas, and every commodity, whether of the farm, mine, or mill?

Mr. BEACH. It is a partial return—you have asked my opinion; I will endeavor to answer. It is a partial return, or the use of the principles of the A. A. A. I am not so familiar with the N. R. A., but I am somewhat familiar with the triple A and previous agreements. It is a continuation of that in intrastate commerce and the question might arise, well, as to whether or not we could do it with potatoes, beans, sugar beets, and so on, but as I see it it is an entirely different proposition because you have on the part of the producer of milk something which has to be sold today. I have rye on my farm that was grown 2 or 3 years ago; I don't need to sell it for the next 6 years, but the milk produced this morning must be sold to a buyer before nightfall, and tonight the cows are going to be milked

again, and the farmer is up against that; he can't stop. And another thing. The city people, consumers, say that we have to have it and that they sent out inspectors to the country to tell the farmer what he sells—and I am for it—but they sent inspectors out to the farmer and say, "On this farm you have to have a milkhouse with a certain amount of insulation around your milk tank, a certain amount of light in your barn, a certain kind of stable; you have to keep them so clean; you have to keep your barnyard so and so; and this and that; and the other thing;" and the farmer is being asked by the consumer to do certain things, or his market is denied to him.

Now, then, isn't it fair that the producer, then, can come back and say, "Can't I from governmental authority in the State of Michigan have some degree of assurance that after I do all of this that some unscrupulous milk buyer is not going to ruin me?" That is why I say the milk business is one thing; potatoes, which you can keep; beets, which you can store for a long time; or beans—and we grow 70 percent of the navy beans of the United States in the State of Michigan—are different things.

Senator KING. I suppose oranges and grapefruit, and so on, you place in the same category of commodities that may be kept for some time?

Mr. BEACH. I am not going to discuss those because we don't grow those in Michigan.

Senator KING. Isn't the purpose of your plan to prevent competition and to compel regimentation? You have to get a license in order to produce; you have to get a license in order to sell; you are subject constantly to the inspection of cities and counties and the State, and those organizations, together with your organization, determine what shall be produced and what prices shall be paid to the consumer and under what conditions the milk may be sold?

Mr. BEACH. Let me agree with you, for the sake of just this further statement, that the producer is under regimentation today on the quality of milk he will produce, and he is under a direct or indirect control—I am going to be very plain—because unscrupulous, selfish milk buyers oftentimes much in the minority, but the minority can spoil all of the good arrangements that may be made by the majority, and after that is done the producer feels that if they are going to go that far with it that he should have some degree of protection to be sure that his business can operate and continue on this rather vital problem of which the city demands in large quantities.

Senator KING. Isn't it the case that in most business activities the person is denominated an unscrupulous dealer if he cuts prices or does not conform to some kind of regimentation prescribed by the business itself, or by the industries?

Mr. BEACH. I will tell you what I mean by unscrupulous dealer, or one that really tears down the livelihood and hurts the livelihood of the producer of milk. That is one, and we have had them in the Detroit market, that has gone into the country and among approximately 14,000 producers that ship milk into the city of Detroit you can pick up one here and then one some place else, and out of 14,000 you can get some to ship milk to you. The fair milk buyer probably can get all of his requirements from farmers living next door to

each other. The unfair one is very apt to have to cover several counties to get his supply, and then after he gets his supply upon certain promises made to producers, and we faced them; I know what I am talking about; after he has the milk supply and particularly during the time when there is an excess of milk produced, a surplus of milk as we are coming into now, then that same distributor will say to them, "Either take a lower price for your milk—" he doesn't say to them, "I know you don't have any other market for it excepting me," but he says to "either take a lower price for your milk or else I will cut you off." And I have a telegram here, and it is on exhibit, of a distributor in Detroit that testified before this committee on March 10.

Senator KING. You are referring to Mr. Johnson?¹

Mr. BEACH. Yes, sir. Whereby on January 31 he sent a telegram to a hauler that was hauling in, I understand, two loads of milk and simply said on February 1, which was within 24 hours, "I won't take your milk any more." Those were not just the words that were used; I have the telegram; you can refer to that; but that was the intent and purpose of it. Now, that farmer had built up his business with expectancy of supplying that particular company and then had that happen. Now, then, the producer had previously been sharing in that market and he felt he should be privileged to continue.

And then another thing: Asking the producer if he will wait awhile before he gets his pay for milk. Those are things that the producer is oftentimes helpless to prevent, on account of being rather widely separated from other producers that may be shipping milk to the same company.

Senator KING. Just one question. Are you not operating now under a code with respect to the nonfluid milk? A code provided by the Department of Agriculture.

Mr. BEACH. For evaporated milk we are. In other words, I won't try to repeat the formula, but evaporated milk is set according to formula.

Senator KING. There is a code provided by the Agriculture Department?

Mr. BEACH. That is right.

Senator KING. And you distributors, and manufacturers for that matter, are operating under that code?

Mr. BEACH. I am not a distributor or manufacturer, but as producers we are selling our manufactured milk under that code.

Senator KING. They fix the price in that code?

Mr. BEACH. That is right.

The CHAIRMAN. Mr. Beach, first let me say the telegram to which you refer is that which you submitted to the committee with your statement?

Mr. BEACH. That is right; the committee has that.

The CHAIRMAN. It might be proper at this mention of it to have that entered into the record here. Have you any suggestion about that, Judge Davis?

Mr. DAVIS. That is perfectly all right.

¹ Mr. George A. Johnson, who testified before the Committee on March 10, 1939; see testimony, *supra*, p. 2829 et seq.

The CHAIRMAN. I don't want to divert testimony at this point to any controversial matter, because I want to develop a little bit.

Mr. DAVIS. I assumed that, and so I am letting the examination continue, intending to ask some questions later in connection with that telegram. At the proper time we desire to introduce something which explains the fact.

The CHAIRMAN. Let that be done at the proper time. Now, Mr. Beach, returning to this board, which is to be set up under the legislation that you have had endorsed by the State of Michigan, will you please describe again the qualifications of the members?

Mr. BEACH. Yes; of course. The chairman is the commissioner of agriculture, who is an appointee of the Governor, and his qualifications might vary, but usually he at least is a producer-minded man.

The CHAIRMAN. He represents the producer primarily?

Mr. BEACH. Well, he represents the State, really; as far as agriculture is concerned.

The CHAIRMAN. But he is selected because of his knowledge of the producers' problem and his sympathy with the producer?

Mr. BEACH. Well, yes; possibly coupled with his undoubted fairness to all of the citizens of the State of Michigan. I believe it is only fair to any commissioner of agriculture to say that, and I believe that is the type we have in Michigan.

The CHAIRMAN. We always hope that public officials are fair.

Mr. BEACH. I don't necessarily mean that should be confined to Michigan, either, but I know those in Michigan. But the two producers, both of whom must receive their principal livelihood from the ownership or management of one or more dairy herds; in other words, their majority interest must be in the producing of milk. The two producers.

The CHAIRMAN. Now, you have a commissioner who is producer minded and two producers; now, who are the others?

Mr. BEACH. Then one consumer that has no pecuniary interest in either the distribution or the production of milk. And then one distributor.

The CHAIRMAN. I suppose by that he could not own stock in a large company engaged in the distribution or in the ownership of distributors?

Mr. BEACH. You mean the distributor? The consumer? That is right.

The CHAIRMAN. And another one is the distributor?

Mr. BEACH. That is right. That is more or less unqualified. That is, they just stay under distributor, if I remember the phraseology correctly.

The CHAIRMAN. So that on this board of five members—

Mr. BEACH. That is right.

The CHAIRMAN. You have a distributor who is primarily interested in the maintenance of—I was going to say prices, but I don't want to seem to be using any language that might be subject to misinterpretation, so I will say who is primarily interested in the milk business, and two producers who are primarily interested in the milk business; a commissioner who is producer minded, and one consumer. Now, with that set-up and referring to your previous answer with respect

to the effect of this legislation, and of your plan on the price received by the producer, and the price paid by the distributor, is not the effect of this entire arrangement to enable those who are primarily interested in the production and distribution of milk to fix the price to the consumer?

Mr. BEACH. No. It might have a stabilizing influence on the price of the consumer. However, here is another interest that we can't forget. The producers very well know that their interest is directly tied up with the consumer, particularly as regards the amount of milk that they are going to use. They must use a maximum amount of milk for the best interests of the producer. Second, the price to the buyer must be right, as compared with a national market. Or, as happened in Pittsburgh when they got the price too high, they went outside of the State of Pennsylvania and brought in milk from the State of Ohio and bought it for less money. The producers of Michigan are not interested in having a price that is so high but what their milk will be sold over a long period of time, and in the largest quantities possible for fluid-milk consumption.

The CHAIRMAN. Are you, then, interested in keeping the price so low that the consumption shall increase? At the same time maintaining the cost of production for your producer?

Mr. BEACH. Yes; with that modification the answer is absolutely "Yes."

The CHAIRMAN. What do you do to bring about that result, if anything?

Mr. BEACH. As far as we are concerned, our interest lies in making this fair price to the producer; of the competition between distributors, which should be free and open, and certainly in Detroit it is open, whether it is free or not, I don't know; but it is certainly wide open; and if it is, then the distributor can distribute his milk any way in which he wishes to; he can sell it in any way that he feels that he can that will pay him so that he can continue to stay in business.

The CHAIRMAN. You say the competition in Detroit now is free and open?

Mr. BEACH. I would say it is; milk can be bought there all the way from 6 cents per quart up to—I don't know whether you would have to pay 11 or not; you might if you got into special milks.

The CHAIRMAN. How does that price of 6 cents compare with the price which you say is representative of the producers, deemed to be a proper price?

Mr. BEACH. You mean to the consumer?

The CHAIRMAN. Yes.

Mr. BEACH. Well, that is a question that it hardly seems as though I ought to endeavor to answer.

The CHAIRMAN. You are in this business now; one of your primary objectives is to see that the producer gets a proper price; that it what we are interested in; so I am asking you—now that you tell this committee that you can buy milk in Detroit for 6 cents—what is the effect of that price upon the producer?

Mr. BEACH. Well, if what has happened is our criterion of what probably would happen, then I would say it is very detrimental to the producer to have a 6-cent price. It is almost ruinous to him.

The CHAIRMAN. Then you are opposed to that degree of competition which reduces the price of milk to the consumer at 6 cents a quart?

Mr. BEACH. I am opposed to ruinous competition.

The CHAIRMAN. You deem that to be ruinous?

Mr. BEACH. I really do, but I am primarily concerned in a price to the producer that will give a fair return to him and if that will not take care of itself, the resale, then probably some different arrangement ought to be made on that.

The CHAIRMAN. Your contention, I take it, is that competition, while it may result in according sweet milk to the consumer, has the effect of driving the producer to a market to which he can sell at a profit?

Mr. BEACH. That is true, and here is a thing that makes it doubly bad. You take the city of Detroit, with which I am most familiar; from 1920 to 1929 there was an ever-increasing market; that is, every year more milk was needed than was needed and used the year before. That means, then, that during that time the creameries were driven out of business. I mean the butter factories, or the creameries that make butter; sometimes we refer to milk distributors as creameries, but now I mean those butter plants in the country within that territory were driven out of business. The condenseries were driven out. Some of the buildings are still there but the condenseries were driven out because of the demand for this milk for fluid-milk purposes.

Now then, after that has been done, then today when the farmer that is in that territory and has been encouraged to ship his milk to Detroit, has to depend upon that market, then he ought to have some degree of protection that ruinous prices will not prevail that will drive him out of business.

The CHAIRMAN. Now you spoke a moment ago of surplus and said that it was about to appear in the market. Did I understand you correctly?

Mr. BEACH. In May and June ordinarily more milk appears when grass comes on, of course, than at any other period of the year. We usually hit our peak about the 1st of June, although at all periods of the year we have had an excess over and above that required for fluid milk; even in November, which is the shortest month of the year, from the standpoint of production, we had 35 percent of milk that was not used for fluid-milk sales.

The CHAIRMAN. Now during this month you will probably be producing more milk than can be consumed by the inhabitants of Detroit. Is that correct?

Mr. BEACH. That is right.

Senator KING. That is not true if you sell at lower prices?

Mr. BEACH. It is impossible to sell milk, in my opinion, so low that you could sell all the milk that might be available in May and June, because there is a limit to what people will use in the way of milk, if you give it to them, and it certainly would ruin the farmer if he went through that painful process.

Senator KING. What can you tell the committee with respect to the consumption of milk in Detroit?

Mr. BEACH. I am not—do you have any particular point in mind?

The CHAIRMAN. I just want to know if the people of Detroit are getting all the milk they could actually consume?

Mr. BEACH. In answer to that question, they are getting all that they apparently will purchase and consume.

The CHAIRMAN. Yes; purchase at the price which is made possible to them under the conditions which you have described. Now, what I am trying to get at is whether or not they actually buy all the milk they could use. How many people are on relief in the city of Detroit, do you know?

Mr. BEACH. I can't answer that question offhand. I am sorry I didn't come prepared; there are quite a few on relief, but I can't give definite figures.

The CHAIRMAN. I suppose you recognize the fact that the more relief people there are, the less consumption there is of all agricultural products, and of all industrial products?

Mr. BEACH. That is right.

The CHAIRMAN. Now, it is a matter of great concern to the producer's association to make certain that all the inhabitants of the area you serve are capable of purchasing all that the body needs?

Mr. BEACH. That is very true. Of course, this raises another question, whether the producer possibly can afford to produce milk so that the cost of getting it to that consumer in the city can still be met and the price to him can be any less than what it is under the prevailing price in the city of Detroit.

The CHAIRMAN. And that, of course, is the fundamental question which this committee is trying to develop, not only with respect to milk but with respect to all other commodities; what is the best means of adjusting the producing capacity and consuming capacity, and that is why I am directing my question to you as an expert upon milk and as the leader of an organization which is actively engaged in promoting a specific kind of legislation. That is why I want to have your testimony with respect to the consumptive power of milk of the people of Detroit, and you have not studied that?

Mr. BEACH. Here is the situation relative to consumption. Approximately 30,000,000 pounds of milk per month is used for fluid milk sales in the city of Detroit, and whether that price is low, as it is now, or higher, as it has been at some times, seems to affect that consumption but very little. As nearly as we know, during the month of April, as nearly as we have been able to predict, when the price of milk dropped 2 cents per quart in the city of Detroit, it apparently has not affected consumption to any great extent. It might be instead of selling 30,000,000, maybe 31,000,000 might be sold; but there is a point below which it is rather difficult to go and at the same time have people use more of a particular commodity. I have gone into stores and asked if they ever had at the close of the business day any 6-cent milk left, and I find that they don't even sell it all at 6.

The same store may have milk selling for 8 cents, and the milk that sells for 8 cents, to the extent of about 3 or 4 quarts of that to 1 quart of the 6, oftentime. The clerk made the statement that the only people that buy the 6-cent milk are the people that cannot afford to buy the 8. However, in milk depots that have that difference, the real difference in value of the milk, the real difference in value of the two milks from the standpoint of cost, is 40 cents per hundred-

weight, and the difference in cost to the consumer as it is resold to them because of the difference in butterfat is 92 cents per hundredweight. In other words, the consumer seems to prefer 92 cents per hundredweight more and pay 8 cents per quart than to buy it for 92 cents less, even though the value is only 40 cents less. This matter of buying on the part of the consuming public apparently is somewhat lacking in their understanding of all the facts that go to make up their purchase value.

The CHAIRMAN. Now, the board, the establishment of which you recommend for the State of Michigan, is empowered to, as I understand your testimony, or is to be empowered to fix the price which the distributor pays the producer?

Mr. BEACH. That is right.

The CHAIRMAN. Is it also authorized to fix the price which the consumer pays?

Mr. BEACH. There was an amendment attached last Thursday which provided that in an emergency which might result in the destroying of the purposes of the act, which would be to make a fair minimum price to producers, they might during such emergency establish prices under which the distributor cannot sell. That amendment was put in last Thursday.

The CHAIRMAN. Now, what control do you recommend to be set up over the discretion of the board?

Mr. BEACH. The discretion of the board in that bill as I understand it, is somewhat defined as to the producer. We have in our State those producers that say that the only way to establish a price on milk is according to the cost of producing. In other words, figure that out and that is it. Now then, that is not in the bill. It states that they might base their price, or shall base it, upon cost of producing same. However, they must take public welfare into consideration, and also supply and demand of milk. Now, that pattern is set up to go by in establishing a fair price to the producers.

The CHAIRMAN. Any pattern with respect to distributors?

Mr. BEACH. What was that?

The CHAIRMAN. The pattern which you have just described is wholly from the point of view of the producer. Now, is there any pattern from the point of view of the distributor?

Mr. BEACH. I am sorry I cannot answer that question. I don't believe—I may possibly have a copy of that bill here with that amendment just attached last Thursday. I wasn't in Lansing when it was brought up, but my understanding is that it provides that a distributor, if the board feels that an emergency exists, that during such emergency their measuring stick will be whether or not the distributor selling below his cost, apparently for the object of driving people out of business because he happened to have more reserve than a large group of distributors in a market happened to have.

The CHAIRMAN. In both instances the judgment lies with the board to determine these facts which control its own action?

Mr. BEACH. That is subject to approval by the court which could be carried up to the Supreme Court, and that is very clearly set forth in the bill.

The CHAIRMAN. There is an appeal?

Mr. BEACH. That is right; yes. A great deal of caution has been used on that because that has been one of the weaknesses of some of the other State milk-control bills.

Senator KING. I have one or two questions before I leave for another committee. The greater part of the milk which is produced now is produced by members of the milk-producing associations?

Mr. BEACH. In the Detroit market alone; we cannot determine exactly, but approximately 80 to 85 percent of the milk in our estimation is produced.

Senator KING. Has there been a constant drive by milk associations to compel—probably that is too strong a term—to influence all farmers who produce milk to join the milk-producers' associations?

Mr. BEACH. I would say one of the main things that producers must do for the benefit of themselves and their neighbors is to encourage that other neighbor to cooperate with him on the sale of his product.

Senator KING. That encouragement has gone to the extent in many instances in many districts, has it not, of being practically forced?

Mr. BEACH. If so, I am not familiar with it. That is not true in Michigan, and I can only speak for Michigan, the State of Michigan. Also, I am sure that you will find the Federal Government has also encouraged the organization of farmers' cooperatives, and that that has been the case in Michigan, but in 23 years in several markets of Michigan not more than 60 or 65 percent of the producers are in a producers' marketing organization.

Senator KING. Hasn't there been a very close union, if I may use that expression, between the farmers' association, milk-producers' association, and the distributors, so that they have, shall I say, synchronized or coordinated their efforts with a view to raising prices and maintaining prices, and have they not utilized the code and other instrumentalities set up by the Federal Government in order to effectuate the purposes I have indicated?

Mr. BEACH. I can again only speak from the standpoint of Michigan, and I can't agree that that is true from my knowledge of the business there. There are many cases wherein milk distributors are doing all they can to destroy farmer cooperative organizations. Again, if I might refer to a previous witness, I just want to say that they made a tremendous rating, probably thousands of visits having been made by the representatives on the members of our organization to get them to pull away from that organization and become disorganized instead of continue to be organized in the way that they have been.

Senator KING. I suppose your organization has combatted those efforts on the part of others and carried on a rather active campaign in order to maintain your organization and to increase its power?

Mr. BEACH. We have done just this: We have endeavored to make the producers acquainted with the situation that is brought about through the lack of cooperation. I want to take credit for our organization—I am sure, having carried on very clean, sportsmanship activity in connection with the maintenance of our organization, and it never can be as strong as it is today, in my opinion, unless that had been the case.

Senator KING. One hundred percent pure?

Mr. BEACH. No.

The CHAIRMAN. Now, Mr. Beach, as a representative of the producers, do you have any choice with respect to methods of distribution?

Mr. BEACH. Generally speaking, no. Some milk distributor could answer this question better than I, undoubtedly, and give you more definite figures, but we know that by and large approximately 40 percent of the milk that is sold as fluid milk is going to be sold through channels other than home delivery. That has always been the past experience. I think you find that is true in most every city, on an average, that that is the case. We have no particular choice excepting that we like to have systems used, I wouldn't say "a system," but "systems" used that will furnish to the consumer the largest amount of milk that he will consume under such an efficient system that he will feel that he is not paying for any excess cost over and above the services that are rendered to him; and our interest does lie in having efficiency practiced, because naturally if efficiency is practiced and the price is only in line with the service rendered, that means that the consumer is apt to use more of fluid sales milk, which is the highest price class into which it can be put, and we naturally have a great interest in that.

The CHAIRMAN. Of course, that is a very general statement. What is "efficiency"?

I am trying to get down to specific details, Mr. Beach.

Mr. BEACH. That is probably an engineering term.

The CHAIRMAN. I think it is one of the terms we frequently use to conceal thought.

Mr. BEACH. I wonder if we don't understand each other, though, pretty well on what we mean by reasonable efficiency. We have it day by day confronting us in everything that we do, and I think that efficiency is usually brought about when there is a fair competition prevailing, too.

The CHAIRMAN. Well, how about the character of the container in which milk is delivered? Do you have any opinions with respect to that?

Mr. BEACH. I really don't believe I do. So far as I am concerned, I don't care whether it is sold in fiber or whether it is sold in glass, or they put it up in silver jugs.

The CHAIRMAN. I have in mind, merely, of course, the size of the container.

Mr. BEACH. No; I—

The CHAIRMAN (interposing). You don't think it has any effect upon the amount of milk that may be consumed or upon the price which the consumer pays, for example, whether milk is delivered in quart jars or half-gallon jars or in pint jars?

Mr. BEACH. It might, Mr. Chairman. However, I have not made any study of that field or had experience in it, and therefore it would seem to me that my testimony would not be of very much value in connection with it.

The CHAIRMAN. Here are two important fields concerning which you have been questioned this morning which seem to me to be of the utmost importance to producers; namely, this one of distribution and also what may be done to stimulate consumption. I recommend a study of those two subjects to the Producers Association.

Mr. BEACH. Well, if we are not distributing milk, then what shall we do—go to those that are buyers of our milk and tell them that they ought to change their system? We could suggest it, but of course it would be up to them to decide what they did.

The CHAIRMAN. Of course, you have gone to the State legislature to ask for a law which directly affects the distributor, and also the consumer, but let's pass that for the moment.

Are there any other points that you would like to develop in connection with this thought?

Mr. BEACH. I believe that fairly well covers all the statements that are probably necessary or advisable for me to make, Mr. Chairman. There have been some investigations made in the Detroit market by those that represent the Federal Government.

I feel that they are very well-informed about the situation there, and should any of them wish to investigate further or ask any questions, I certainly would be more than pleased to do my best to answer them.

The CHAIRMAN. Your testimony boils down to this, that the free open competition in purchase of the producer's milk supply, under modern conditions, resulted in such ruinous prices to the producer that in your opinion, as a producer, it is necessary for the Government to step in with a price-fixing authority to protect the producer.

Mr. BEACH. That is right.

The CHAIRMAN. And you seem to feel that it is more or less a choice between evils; the abuses under the present system are so great that you prefer to risk whatever danger may be involved in the discretionary authority of a Government board.

Mr. BEACH. That is right; based upon studies made in some other States, we followed what has happened in New York State quite carefully with their most terrible conditions, and we would still say "yes" after knowing something about that.

The CHAIRMAN. Then you recognize there are dangers involved in the delegation of discretionary power to the price-fixing board?

Mr. BEACH. Always; always. That is true.

There is one other thing, however, that we mustn't overlook, as I see it. The producer of milk, or rather the producer of other agricultural products in the State of Michigan, most of them can produce milk. Therefore, if we try to get a price too high, it is going to mean that they are going to quit producing sugar beets, beans, potatoes, and many other cash crops that have quite a bit of uncertainty to their return, and are going to produce the sure product of milk, and that in itself would break down an excessively high price if it becomes too high, and the producers pretty well understand that. In other words, they are in competition with one another on the production of the produce which they have for sale.

The CHAIRMAN. There is another question that I would like to ask. What, in your opinion, is the effect upon consumption and on price of the establishment of milk depots?

Mr. BEACH. So far as I have observed, if the milk-depot system prevails in any market, and it does prevail in the Detroit market somewhat, and of course it is also sold through a large number of other stores on a cash-and-carry basis, but if it does, and carries an arrangement whereby fluid milk so sold is paid for to the producer on the same basis as other distributors pay that use some other

system of delivery, the test of the efficiency will be determined and probably either it will live and thrive or else it will not be able to meet competition when the same price is paid, and then it would simply have to pass out of its own accord.

In my opinion, however, it would remain and still a fair price could be paid to the producer regardless of in which manner the milk would go to the producers.

The CHAIRMAN. Do you have any choice?

Mr. BEACH. We have no choice at all.

The CHAIRMAN. Are there any questions you care to ask?

Mr. FERGUSON. Judge Davis has some questions to ask.

Mr. DAVIS. Mr. Chairman, may I make a brief explanation?

In connection with the work assigned the Federal Trade Commission by the Temporary National Economic Committee, the Commission was directed to assemble and report upon the Commission's experience with respect to monopolistic practices as evidenced by its case work and general investigation. In connection with the report thereon, the Commission made a general summary report of the results of an investigation of milk and the milk industry which it had not long since conducted pursuant to the direction of a joint congressional resolution, and it had reported thereon to Congress.¹

Supplemental to that, the Commission sponsored the introduction by representatives of the United States Department of Agriculture of additional evidence with particular reference to the city of Detroit, Mich., and one reason that that was done was because it had appeared that from the report to which Mr. Beach has referred, it having been made to Governor Murphy,² monopolistic price fixing had existed in Michigan prior to certain investigations and prosecutions, and the entry into the field of an independent, one George A. Johnson, who introduced the method of cash and carry from depots which he had established in various sections of Detroit, with the result that there was a very sharp and substantial reduction in prices to the consumer, not only with respect to cash-and-carry milk but also with respect to milk delivered in trucks.

Mr. Beach filed a statement with various exhibits in which he sharply challenged the statements, particularly in some respects, of Mr. Johnson. He filed a number of exhibits and has also made an oral statement today.

The representatives of the Commission didn't have an opportunity to see this statement and exhibits until, I think, Thursday, but there are certain phases of that and of Mr. Johnson's testimony which we would like to further develop in the interest of presenting all the facts involved to the committee.

Now Mr. Beach, in the early part of your testimony you made reference to the fees collected from their members by the Michigan State Association, of 1 cent and 2 cents. Now, as a matter of fact, your association collects from its members 8 cents for pool fees and association dues, does it not—8 cents on each hundredweight of milk?

Mr. BEACH. I attempted to explain that in the matter of pooling milk, there were those whose milk from month to month had to be

¹ Introduced supra, p. 2866, as "Exhibit No. 370." "Report of Federal Trade Commission on Concentration of Control Over Sales and Distribution of Milk and Dairy Products under Public Resolution No. 113, 75th Congress"; included in the appendix, p. 3135.

² Refers to "A Report to Hon. Frank Murphy, Governor, by Hon. Raymond W. Starr, Attorney General of the State of Michigan, and Hon. Thurman W. Arnold, Assistant Attorney General, U. S. Department of Justice, Relative to the Milk Industry of Michigan, With Particular Reference to the Detroit Metropolitan Area"; not entered in the record.

diverted directly to manufacturing purposes, and in order that they might share in the market as though their milk had continued to come into the Detroit market, and instead of they being the ones that were being sent to the manufacturing markets solely, in order to take care of the difference the producers decided that such an amount should be deducted from the milk of those that goes into the regular market, the fluid-milk class, with which to make up the difference to the other producer whose milk has to go into the manufactured class, so it brought his milk up to the price where they all receive the same average price.

In our market no producer knows today whether he may be the one, in 30 or 60 days, that may have to be diverted to a manufacturing market, therefore they felt that in order to be mutually helpful, that very broad cooperative idea should be used of equalizing between them, and so that is what the 5 cents per hundredweight is that is deducted. The balance, which is 3 cents, is divided in this way: 2 cents goes to the Michigan Milk Producers Association, speaking again about the Detroit market, for the purpose of carrying on the work of the Michigan Milk Producers Association, whatever that might happen to be. It takes care—I don't know; maybe I have a complete financial statement here. If so, I would be very glad to furnish one, to show just exactly how that money is used.

Now the 1 additional cent used to be used during the time when the Federal marketing agreement was in effect in the Detroit market, and the association has had to take over the same activities that were carried on under the license and agreement in order to continue that same general plan and program, and so it was voted by the members to have that 1 cent continue to be taken for this purpose.

But included in that is something of which I might have spoken before, some money that is used for advertising purposes to increase the sale of fluid milk.

Mr. DAVIS. This report to Governor Murphy, to which you referred, sharply criticizes this pooling system you have, does it not, and charges that it is discriminatory and unfair to some of them?

Mr. BEACH. Well, if I understand the report correctly, it is very commendatory toward an equalization plan of milk.

Mr. DAVIS. Yes; but it says yours is not an equalization plan, does it not?

Mr. BEACH. Well, I wouldn't want to answer that without referring to it. However, I say to you that, what is it if it is not an equalization plan? It certainly is a form of equalization between producers.

Mr. DAVIS. Well, if you want to ask me the question, I am willing to accept the statement of the attorney general of the State of Michigan and of the Assistant Attorney General of the United States in their reports to Governor Murphy in that respect, and if you will hand me that report we will settle just what it is.

Mr. BEACH. Possibly if you refer to that I might be able to assist in throwing some more light upon that.

Mr. DAVIS. Now, Mr. Chairman, this is entitled "A report to Hon. Frank Murphy, Governor, by Hon. Raymond W. Starr, Attorney General,¹ and Hon. Thurman W. Arnold, Assistant Attorney General, United States Department of Justice, relative to the milk industry of Michigan, with particular reference to the Detroit metropolitan area,"

¹ Of the State of Michigan

which Mr. Beach has filed as Exhibit 3 in his report,¹ and on page 31 of this report, under the heading "Inequalities in present plan of purchasing milk." I wish to read briefly from the report as follows:

The Attorney General accepted as a sound principle of the milk industry that each distributor in a market should pay the same price for his milk in the same use classification as every other distributor in the same market. Many of the milk markets of the country operate under what is known as a classified price or classified-use plan. Under this plan each distributor pays the same price as every other distributor for milk used as fluid milk, fluid cream, and other. In theory the plan now in use in the Detroit area is supposed to arrive at that result. In practice, it does not work out that way. In Detroit a classified price plan for selling milk to distributors is operated in conjunction with a base and surplus plan for determining payments to producers. It is possible to operate the two plans together in such a way as to make the cost of milk on a use basis the same to each distributor as to every other distributor. It is possible, on the other hand, under such a plan, for some distributors to get their milk cheaper than others. That is what is happening in Detroit today.

And there is considerably more to the same effect. In fact, I wish to earnestly commend to all of the members of the committee the reading of this entire report. It is very illuminative and will shed a good deal of light on much of this subject.

Now, getting back to the question which I asked you, Mr. Beach, about the fees which are collected from the members of your association, it amounts to 8 cents per hundred pounds of milk, does it not?

MR. BEACH. Total deduction. We don't call it fees. The total deduction is 8 cents.

MR. DAVIS. Well, don't you call it the pool charge and the association dues? I believe you call them dues.

MR. BEACH. That's right.

MR. DAVIS. It amounts to 8 cents. It produces as much or more than \$40,000 a month at times, does it not?

MR. BEACH. No; it does not.

MR. DAVIS. How much were the total collections during the last year?

MR. BEACH. Pardon me; I was thinking of the two separately. Eight cents per hundredweight on 50,000,000 would be 40,000; yes; it might run to \$40,000 per month. I was thinking only of the pool deduction.

MR. DAVIS. How much were your total collections in this regard last year?

MR. BEACH. Well, I can't say, offhand, but probably it might be half a million for all put together.

MR. DAVIS. How much do you have in your treasury now?

MR. BEACH. About \$300,000—slightly more than that.

MR. DAVIS. Will you explain for what these large sums are expended?

MR. BEACH. Yes. The association was organized in 1916. It was started by producers giving notes payable to the extent of approximately \$25—one every 3 months. In other words, it started from scratch, with the understanding that there would be 2 cents per hundredweight deducted for the purposes of carrying on the work of the Michigan Milk Producers Association.

A few years after that this situation was one which confronted the members of our organization, whereby the milk from a group of

¹A report filed with the Committee in reply to a questionnaire sent to witnesses prior to the hearing.

producers would go to a certain distributor, and this distributor might owe totaling twenty-five or thirty thousand dollars for milk, and he would go into bankruptcy or fail to pay. Usually when they do fail to pay they do go into bankruptcy eventually, and so the association members decided that, with the reserve that they had created, there could be put into effect a new contract which would give to the individual producer a guaranty of pay, and I can't answer, offhand, how much money has been paid out for that purpose alone, but probably it will run about \$150,000 since the time that that was put into effect.

Mr. DAVIS. That was 23 years ago.

Mr. BEACH. No; that wasn't put into effect when they had no money. It was put into effect after they had created a reserve.

Mr. DAVIS. About what time?

Mr. BEACH. Probably 12 years ago.

Mr. DAVIS. You have been making a collection of half a million a year in order to have a reserve of a sum total of \$150,000 lost during a 12-year period?

Mr. BEACH. To dispose of that \$40,000 that I mention, that \$40,000 is paid out every month when it is collected. Pardon me; you include the whole thing. The pool money, which is 5 cents, amounts to approximately \$25,000 per month, and that is paid out on the 15th of this next month. That is not held in reserve. In other words, the 15th of May that whole \$25,000 will be paid out. Therefore, that means that \$300,000 of that which you mentioned would be paid out just over and over. It would be paid out currently every month.

Mr. DAVIS. And \$15,000 a month for dues is otherwise used?

PAY FOR MILK GUARANTEED TO PRODUCER MEMBERS

Mr. BEACH. That is right. That is used in several ways. Out of that comes the reserve to make the guarantee of pay. That is one thing, and that is one of the most important things.

Another thing is, if a producer is quarantined, due to scarlet fever or some other contagious disease, and he is shut off by the board of health, he receives a certain percentage of payment from his own organization, a sort of mutual insurance proposition in that regard; and then we have quite a few testers that test the butterfat content of milk sold by our members. Those men naturally are paid. We have those that do quality work, methylene blue testing, and so on. Those are paid from that.

We also have, naturally, regular expenses like office rent and things of that kind, from which that is paid. In fact, if you will allow me just a moment, I think I have a financial statement with me and I will be glad to give that to you.

Mr. DAVIS. Just file it.

Mr. BEACH. I have this, Mr. Chairman. I can give you just as much information as you want from this. This is the report that is published for our members; or, I will be very glad to file it.

Mr. DAVIS. Just file it.

The CHAIRMAN. It may be filed.

(The report referred to was marked "Exhibit No. 435" and is included in the appendix on p. 3233.)

Mr. DAVIS. Speaking of audits, which you explained in your earlier testimony and to which you referred again, how many au-

ditors are employed by your association to audit the books of the distributors?

Mr. BEACH. We employ two regularly.

Mr. DAVIS. Well, now, you have 17,000, or approximately 17,000, accounts.

Mr. BEACH. No; we do not. We don't audit the producers. We audit the distributors.

Mr. DAVIS. But don't you have the account of each producer?

Mr. BEACH. We don't have to audit that. Let me tell you why we don't. In the first place, 17,000 is over the entire State. We have approximately 10,000 in the Detroit territory, but every producer every month knows the price of his milk. And if he is not paid properly he will send that in to us for adjustment right away. He does his own auditing.

The thing that we have to audit are the total purchases of a company; and, by the way, we also have a check on that so that that is not much of a job.

The principal thing we have to audit are the pounds of milk that are sold by the milk distributor from his sales records. That is the principal thing.

Mr. DAVIS. In other words, the producer is supposed to be paid upon a basis of use to which his milk was put. That is correct?

Mr. BEACH. That is right.

Mr. DAVIS. Now, we will say 10,000 men are selling in the Detroit area. There are two checks given a month, I believe.

Mr. BEACH. No; one.

Mr. DAVIS. Aren't they paid on a 15-day basis?

Mr. BEACH. No; they pay on the 15th of one month for the previous month's delivery. There are exceptions to that, but I think that 98 percent of the milk that we sell is paid for on a monthly basis.

Mr. DAVIS. Do you think two auditors can keep up with the use to which the milk of 10,000 producers is put each day by numerous distributors? How many distributors in Detroit have contracts with your association?

Mr. BEACH. We have no written contracts, but those with whom we do business, which is the information you wanted, is about 41.

The CHAIRMAN. May I interrupt at this point that the Members of Congress, of course, have been summoned to the floor, and I am wondering if it would be convenient to suspend now and resume this afternoon at 2:30. I find that room 318, in which the Foreign Relations Committee has been holding the neutrality hearings, the one in which we have been accustomed to hold our hearings, will be vacant this afternoon, so we will recess now to reassemble at 2:30.

(Whereupon, at 12:10 p. m., a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 2:50 p. m. upon the expiration of the recess.

The CHAIRMAN. The committee will please come to order.

Judge Davis, are you ready to proceed.

Mr. DAVIS. I am.

Mr. BEACH. Mr. Chairman, might I ask if, in view of the fact that there were certain things suggested this morning, would it be advisable to clear the record on those? There are two or three statements that I would like to have included in the record to clear those, if you wish to have me do it at this time.

The CHAIRMAN. If you have any additional statement to make, I am sure the committee will be very glad to receive it.

Mr. BEACH. In the first place, based upon questions which you asked of me as to the relationship or effect upon producers of price reduction, this information has just come to me since we adjourned at noon. I received the following telegram from the office of the Michigan Milk Producers Association in Detroit this noon. It states:

Starting today Johnson prices dropped to 5, 6, and 7 cents for Detroit standard, 3½ percent and 4 percent milk, respectively.

It is signed "C. L. Bolander," who is one of the employees of the Michigan Milk Producers Association.

Now, coupled with that is the fact—

The CHAIRMAN (interposing). What price does that mean—price to the producer?

Mr. BEACH. To the consumer.

Coupled with that fact, according to what I believe to be reliable information, the Johnson Milk Co. is now behind on making payments to their producers. I have had statements tendered to me within the last few days showing that some producers want to come with the Michigan Milk Producers Association because their pay has been 14 days late, and I have had some that have wanted to come with the association—quite a large number—because of failure to receive their pay when it was due.

If that is the situation on the reduction in price, which, of course, should be denied by Mr. Johnson if it is not true, and if, in view of the fact that he is behind on making payments to producers now, this will have to mean one of two things—either paying the producer less or else getting farther behind, either one of which means a financial loss to the producer. And if that situation prevails it means that other buyers to whom we sell milk will make urgent requests that the price be reduced to them so that they in turn can meet that competition; and if that is the case, it means a heavy financial loss to the producers in Michigan.

I thought that tied in with the questions you asked of me this morning, and it might help to clarify it, and it is very current.

Now, the second point I think has to do with the question raised by Judge Davis. I am very much like him in that I feel that the Department of Justice made a very comprehensive and understandable and intelligent report. With the exception of just a few minor errors, I am willing to accept it as a basis of fact so far as the Detroit milk market is concerned. I think, however, that along with the statement that was read about the pooling matter, that the remainder of that statement should be read into the record, and, without taking too much time to do it, I would like to refer to page 31, in

order that you might follow me if you wish, Judge Davis. This is what was said:

DEPARTMENT OF JUSTICE REPORT TO THE GOVERNOR OF MICHIGAN

Mr. BEACH (reading):¹

A distributor who sells a higher percentage of his milk as fluid milk than the average of the entire market buys his fluid milk at less than the agreed class 1 price. For example, during the month of June, 46½ percent of all the milk coming into Detroit's market was sold as fluid milk. If a given distributor buying on the base and surplus plan had actually sold 46½ percent of his total milk purchases in fluid form, his fluid-milk cost would have been \$1.90 per hundredweight. Another distributor buying on the same plan and paying the same price for his milk, but selling 70 percent of his total purchases as fluid form, would be paying substantially less than \$1.90 per hundredweight for his fluid milk.

Still a third distributor who buys his milk on the same basis and pays the same price for it, but who sells only 30 percent of it in fluid form, pays substantially more for his fluid milk than \$1.90 per hundredweight. Some method of equalizing these payments is essential. The only way to bring about equality as between distributors and the price paid for their milk is by means of an equalization pool. That is the method that was used under the marketing agreement and license that were put into effect in the Detroit market by the Agricultural Adjustment Administration.

A distributor who paid his farmers less for milk purchased under the base and surplus plan than he should have paid on the use basis, paid the difference into a pool operated by a market distributor. A distributor who paid his farmers more on a base and surplus plan than he should have, passed on the use basis, received the difference from the equalization pool. Thus, payments for milk are equalized as between the distributors and the inequalities of the base and surplus plan were eliminated.

In September 1937 when the Agricultural Adjustment license was canceled the equalization pool went out with it. Distributors purchasing from a cooperative association refused to go along with the equalization pool on a voluntary basis. Some effort was made to get the distributors to equalize the price by taking more milk. The plan was that a distributor selling 10 percent more fluid milk than the average of the market would take enough more milk for manufacturing purposes to bring his fluid sales down to the average of the market.

This effort has not met with any great degree of success. There is very little reason for a distributor to buy more milk than he can use. Furthermore, a dealer makes money—

and this is very important, by the way—

by keeping the percentage of his fluid-milk sales high, and dealers are in the business to make money. As an official of one concern put it, when his attention was directed to the fact that his fluid-milk sales were running from 2 to 3 percent above the average for the market for a period of several months, "If the figures didn't come out that way I would have to recommend to my company that they cut my salary."

During June and July 1938 the figures are given in a table here—

which I am not going to take the time to read, for each distributor by number rather than by name. But I want to couple that up with the statement that starts in on the last line of page 53, where it says as follows:

Johnson does not buy his milk on the base-and-surplus plan. He buys all of his milk on a flat-price basis. The price he pays is usually 5 or 10 cents higher than the blended base and surplus price received by producers selling through the Michigan Milk Producers' Association. However—

¹ Reading from "A Report to Hon. Frank Murphy, Governor, by Hon. Raymond W. Starr, Attorney General (of the State of Michigan) and Hon. Thurman W. Arnold, Assistant Attorney General, United States Department of Justice, Relative to the Milk Industry of Michigan, With Particular Reference to the Detroit Metropolitan Area."

and here is the crux of the thing—

it is substantially less than the price distributors buying from the association pay for their fluid milk because of the fact that almost all of his milk is sold as fluid milk.

The CHAIRMAN. What are you reading from now, Mr. Beach?

Mr. BEACH. I am reading from the report that Judge Davis read from this morning.

The CHAIRMAN. You are reading from the Department of Justice report?

Mr. BEACH. That is right; a report to Hon. Frank Murphy, Governor, by Raymond Starr and Thurman Arnold. This gets at the meat of the thing so well that I feel if we get that, a great deal has been accomplished in a better understanding.

As Johnson's fluid-milk sales increase, there is a consequent decrease in the amount of fluid-milk sales of other distributors in the market. Unless Johnson's lower-priced milk results in an increase in total consumption, an event which is highly problematrical, also as the fluid-milk sales of these other distributors decrease, they buy less milk from their producers at the higher or class 1 price, and more at the lower or surplus price, the result is a lower net return to the other producers in the market.

Johnson's sales are not reported to the producers' association and are not considered in arriving at the base price.

The reason for that is, of course, he does not do business with the Association.

Johnson's method of buying is undoubtedly a factor in his ability to sell for less than his competitors.

To meet the Johnson competition other distributors insist on paying less for their milk. The result is a constant fight to bring the producers' price down, with a result that the producer is bearing the brunt of the present price warfare. If Johnson were required to pay the same price for milk as other distributors are paying, a fair test of the efficiency and public approval of his system of milk distribution would be provided.

And then in the summary this very significant paragraph is included, on page 62, paragraph No. 3, starting about in the middle of the page:

The situation with respect to producers' prices is not entirely satisfactory. The Michigan Milk Producers' Association—

The CHAIRMAN (interposing). Is that correct, from your point of view, too?

Mr. BEACH. Yes; that is near enough, so we may assume that it is correct.

The price to be paid producers for milk is worked out by agreement between the distributors and representatives of the producers' association, theoretically. Every distributor should be paying the same price as every other distributor for his milk. Due to the different methods of buying milk in vogue in the market, and to the fact that distributors are supposed to buy their milk on one basis and pay for it on a different basis, there is a great difference in the cost of milk as between distributors. Some distributors buy their milk so much lower than others that they are able to sell it for substantially less and still make a profit. To meet this competition the distributors in the unfavorable position seek other means of getting the price of milk down. While the consumer has gained from existing price competition, the producer has suffered from it.

Milk prices in this area—

Speaking about Detroit—

are lower than they have been at any time since 1933. The lack of uniformity in the buying of milk is undoubtedly contributing substantially to the present

low producers' prices. The producer price situation needs attention. There is a strong body of opinion to the effect that if producer prices could be stabilized and all distributors required to pay the same price for their milk, the major difficulties of the Detroit market would be eliminated.

Since this market is almost entirely an intrastate market, such action as might be taken toward this end must come from the State.

The CHAIRMAN. Now, does that statement have your approval, too?

Mr. BEACH. It receives my 100-percent approval.

The CHAIRMAN. Then there really is not very much controversy here, is there?

Mr. BEACH. Well, there is no controversy between that document and me.

The CHAIRMAN. I am trying to find out where there is some real controversy, if any. The committee voted to permit you and several others to make appearance here because the impression apparently had gone about that some, shall I say, inaccurate statements had been made. I have noted during the life of this committee that there is a tendency upon the part of persons who may come before it, who may expect to be called before it, and who are interested in the matters which we are studying, to believe that this is some sort of a prosecuting agency and that we are trying to lay traps for people. Now, of course, there is no basis for that at all. We are merely trying to find out what this very complicated economic problem is and what may best be done about it, because obviously every factor, not only in the milk problem but in every other economic problem, is compelled to turn to government for some sort of a solution. You have turned to government voluntarily, just as your producers' association in Michigan has turned to the Michigan Legislature to ask for a milk control act. Businessmen come to Congress for all manner of relief, and Congress very readily grants it. Now, since you have placed the stamp of approval upon the report from which you have just read and from which Judge Davis read this morning, it seems to me to boil down to an acknowledgment that 85 percent of the supply of milk is controlled by your organization, on behalf of the producers. You are frankly endeavoring to serve what I regard to be a perfectly proper purpose; namely, to maintain what you regard to be a living price for the producers of milk. Upon the other hand, distributors are trying to maintain what they regard to be a price that will enable them to meet the prices that you pay and on the other hand it is acknowledged by everybody, apparently, that if a distributor who does not belong to the distributors' group, which meets with you to fix the prices which the distributors pay to the producers, such a person is very likely by his operation to cut the price of milk to the producer and at the same time cut it to the consumer. Is that a correct statement?

Mr. BEACH. Well, you said that it does not belong to the distributors' group. You probably mean by that, if he is not one of the distributors to whom we sell.

The CHAIRMAN. Having in mind the statement which you just read, that 85 percent of the milk supply of Detroit is controlled by this producers' organization for which you speak, and that the price which is paid to these producers is fixed by contractual arrangement between your group and the distributors. Now I just made the inference that a man like Mr. Johnson, who testified here is certainly

not a member of that group which makes the contractual agreement with you for the fixing of the price.

Mr. BEACH. To the producer. That's right.

The CHAIRMAN. And his operation, since he is outside of that group, necessarily results in a lower price to the producer. Isn't that the whole story?

Mr. BEACH. It wouldn't necessarily mean that he would have to pay less, but the facts of the case are that he does.

The CHAIRMAN. That is the reason he doesn't join, because he wants to buy milk at a lower price and feels that he can make a profit that way. That is the free open competitive system. It does seem to me—perhaps I am testifying here Judge Davis—but what has been said this morning, what has been presented from every angle, seems to emphasize that in our present era we are struggling to produce results, to produce beneficial results, in a situation which is dominated by organizations of one kind or another, as against the old system which was dominated only by individuals. We had an individual economy that seems to be behind us, and we are working now in an organizational economy.

Mr. BEACH. Well, in the milk industry, among producers, 85 percent, while it is a high percentage, is not domination, because at the time of the license approximately 93 percent of all of the milk in the Detroit market was handled upon the same basis. There are some markets where it is as high as 96 percent, which might well be called domination, or at least control. But the thing that happens is this. There is competition there between the 93 percent and the other 7, and the 93 becomes less and the 7 becomes a greater amount. And it is always necessary for the 85 percent, or whatever that may happen to be, to constantly recognize the 12 or 15 milk buyers that are in a market that go out and buy there for less.

This 85 percent must recognize that and must meet that competition, or it soon means that the 85 percent is 82, and then 80 and 75 and 60, and finally to the point where it is not a very potent factor in the market.

That competition is really there. If I wanted to refer to statements that used to be made back in the N. R. A. days, they were to the effect that 10 percent could often bring about a ruinous situation for the remaining 90 percent. I believe that to be true, according to my observation in the milk industry.

The CHAIRMAN. Would you like to get that other 15 percent into your organization?

Mr. BEACH. I will tell you what I would like. We have offered, and I am not going to take the time to read the letters but it is a matter of record, to sell milk to the Johnson Milk Co., as one of those that are outside. I don't care whether the name is Johnson or what it is, it is the principle of the thing I am interested in, because I dealt with Mr. Johnson of the Johnson Milk Co. and know him. But we had a letter from the Johnson Milk Co. on August 3, 1938, saying that he was in the market for milk from 200 additional farms. He said, "If the Milk Producers' Association and the milk dealers of Detroit have a surplus, why cannot this milk be transferred to my company?" and I wrote him this two-page letter, which I am not going to take the time to read, but it sets forth first that we would

sell milk to him on the same basis as we sell to the other distributors in the Detroit market, and for fear that there might be some misunderstanding, we stipulated what that basis was. That was on August 10, 1938, and on August 12 this letter was sent back to us, and this is an exhibit that has been filed with the commission:

No person or persons except myself has any authority to dictate or formulate the policy of the Johnson Milk Co.

Now, included in that we said one other thing, and that is that we would want to check test on the milk. When you stop to realize that one point, one-tenth of 1 percent, difference in test, means 4 cents per hundredweight to the producer, or on the volume of milk that we handle it means \$20,000 per month to the producers, and if you take a test to become an efficient tester oftentimes they will allow you 1 or 2 points' variation between you and accuracy and still you can get a license to test, therefore that check-testing service of the association may pay twice the cost of the expense of maintaining the Michigan Milk Producers' Association.

I wanted to bring out, Mr. Chairman, particularly that this has been done on the part of the Michigan Milk Producers' Association, offering to sell this milk, in spite of the fact that when we dealt with Mr. Johnson, of the Johnson Milk Co., who ran under the name of the Modern Milk Co. in Grand Rapids, he got so far behind in the payment for his milk, on dues, that he at one time owed approximately \$2,300—and on the equalization fee in effect over there—and still further, during the Government hearing in Grand Rapids, pursuant to the possibility of putting in a license and marketing agreement in Grand Rapids, the farmers from around Grand Rapids kept coming to the Government officials and myself and asking me if they were properly paid. They were paid a 35-percent surplus, and they said, "We know that the Johnson Milk Co. does not have that surplus but is short of milk." Therefore, we approached the Johnson Milk Co., who was doing business as the Modern Milk Co. then, and asked him about it, and he intimated that he didn't know.

Therefore, we tried to get an audit of the books, and first he denied it, and it was contrary to an agreement and we had to go into court, and here is a record of that court case, and it is stipulated in the supplemental statement which I want to have the privilege of filing, which I started to read this morning but diverted from it. It is rather short, and I will just leave that with the committee if that is O. K.

So when Johnson realized that he had withheld money from the producers and had not paid them properly an amount of \$1,200, together with \$2,300 that was owing to the association on the equalization account, on advice of his counsel he paid up and did not go through a trial in court.

But in spite of all that, these things that I have mentioned are so fundamentally sound that we are willing and glad, contrary to what Mr. Johnson said, to sell him milk and have told him so in writing, and also have told him so verbally several times, that we were willing to, and we still are, so far as that is concerned.

The CHAIRMAN. Well—all right, Judge Davis. Proceed.

Mr. DAVIS. Mr. Chairman, Mr. Beach read paragraphs from the conclusions of this report made to Governor Murphy, with approval. I want to read two or three paragraphs that he didn't read, and see if he approves those.

Mr. BEACH. Could I ask what page, Judge Davis?

Mr. DAVIS. Page 61. The first paragraph is a general explanation of the investigation [reading]:

It is true there is no evidence of any combination or conspiracy in restraint of trade covering the sale of milk or its products at the present time. There is ample competition in the sale of milk in Detroit today. One concern has started a chain of milk depots, 31 or 32 in number, from which milk is being sold on a cash-and-carry basis for 6 cents and 8 cents a quart. The difference in price is due to the difference in butterfat content.

Stores are selling milk regularly for 7 cents a quart, and on Saturdays as low as 5 cents.

The prices there for sale by the stores are other dealers than Johnson, are they not?

Mr. BEACH. I would have no way of knowing.

Mr. DAVIS. It is a fact, is it not, that various independents do sell their milk through stores?

Mr. BEACH. Oh, yes.

Mr. DAVIS (reading further):

Milk is being delivered to the home for 11 cents and 10 cents a quart, in some instances for as low as 8 cents. New distributors have no difficulty getting into the market. There has been a substantial increase in the number of distributors in the past few years. There is an ample supply of milk within reasonable hauling distance from the city. The local health officials have not made any limitations on the area of inspection. They will provide inspection at any place that a distributor desires to get his milk.

During 1934 and 1935, the Distributors Trade Association, acting in concert with the local bottling exchange, was able to maintain prices at a fixed level and to prevent effective competition in the sale of milk. Vigorous action by the Wayne County prosecutor's office, coupled with the opening of the milk depots with their low-priced milk, resulted in a breaking up of the combine and restoration of competition in the milk business. The dealers' association was dissolved. There is no formal organization of milk dealers in the Detroit market at the present time.

Do you approve of that?

Mr. BEACH. I am willing to accept the statement as given, because that doesn't pertain to the producers, the producers' organization. I am assuming that the investigators have the same truth involved there as they have in the others that pertain to the association.

Mr. DAVIS. Right in that connection you have made reference in your written statement and in your oral testimony to the Federal marketing license which was granted there in Detroit, and you state that you are undertaking to carry on in the same way. That license was first granted, was it not, August 23, 1933?

Mr. BEACH. That is right.

Mr. DAVIS. And was then withdrawn the following December?

Mr. BEACH. No; December 1937, 4 years later, a little more than 4 years.

Mr. DAVIS. Didn't they first withdraw it and then grant a new license which was later withdrawn in 1937?

Mr. BEACH. Possibly you are right, but they overlapped.

Mr. DAVIS. Isn't that correct?

Mr. BEACH. I will assume that you are correct on that.

Mr. DAVIS. Isn't it a fact that the first marketing license granted fixed the price of milk to the consumer at 10 cents a quart?

Mr. BEACH. Unfortunately I haven't a copy of that license here. It is on record here at Washington, and whatever it says speaks for itself.

Mr. DAVIS. You don't remember that fact? That fact is stated in the report to the governor.

Mr. BEACH. O. K., then I will accept it as being right.

Mr. DAVIS. And then, after that had run for a few months and they canceled that license and granted another one, it did not contain any authority whatever to fix a price to the consumer. Is that not correct?

Mr. BEACH. That is right. The Government changed their policy on resale prices. That is on resale prices. That is right.

Mr. DAVIS. Yes.

Then isn't it a fact that, as stated in this report to the governor, the distributors themselves thereupon formed a combine and fixed the price to the consumer.

Mr. BEACH. I don't know that to be a fact.

Mr. DAVIS. Do you deny it?

Mr. BEACH. I don't know.

Mr. DAVIS. Well, this report says it did, and you said you accepted that.

Mr. BEACH. I will accept the statement in the report, but from my knowledge of it, the report is not based in this regard on any information that was received from me, and I don't know about that. I will accept the report.

Mr. DAVIS. Well, it is stated in detail even before the conclusion is stated, and it is all in the record.

Now, then, the price was run up from 10 cents to 11 cents, and then to 12 cents, was it not, the price to the consumer?

Mr. BEACH. You mean off the wagon or through the stores?

Mr. DAVIS. Well, now, in that connection isn't it a fact that the price was the same whether it was cash and carry or delivered until Johnson entered the field?

Mr. BEACH. No; all the prices weren't the same. I think that you will find that there was a quite a wide variation, and I believe that many stores sold milk at a different price than the price off the wagon. As I recall from experience in the market, that was the case.

Mr. DAVIS. And then the distributors announced that they were going to increase the price to 13 cents, didn't they?

Mr. BEACH. Well—

Mr. DAVIS (interposing). In 1936.

Mr. BEACH. I can't answer from the standpoint of the milk distributors. I didn't announce any price and didn't have anything to do with any announcement of price.

Mr. DAVIS. You were pretty familiar with what was going on in the milk industry in Detroit, weren't you?

Mr. BEACH. Some may have announced it; yes; that they were going to sell milk for 13 cents retail off the wagon.

Mr. DAVIS. I read, beginning on page 49 of this report of the Attorney General and the Department of Justice:

On February 10 every distributor in the city made an announcement of an increase in the retail price on the following day from 11 cents to 12 cents a quart.

There are approximately 46 quarts in 100 pounds of milk. The increase in the producer price was 23 cents a hundred, hence an increase of half a cent a quart to the producer resulted in a whole cent a quart increase to the consumer. Immediately consumer organizations began to raise a great hue and cry. Responding to public demand, the prosecutor of Wayne County started action against the Metropolitan Detroit Milk Dealers' Association and the officers and directors of the bottle exchange, charging a conspiracy to raise the retail price of milk in violation of the Michigan antitrust laws.

A one-man grand jury was convened, and extended hearings were held running well into the fall of the year. No indictments were returned, but the hearings were widely publicized. At the conclusion of the grand-jury proceedings, quo warranto proceedings were instituted by the prosecutor in Wayne County circuit court to dissolve that Metropolitan Detroit Milk Dealers' Association for violation of the State antitrust laws. Dairy producers are specifically exempted from the provisions of the Michigan Antitrust Act in the following language—

And it is quoted—

"It was the position of the prosecutor that while the distributors had a right, under the law, to get together with the producers' association and agree on a price to be paid producers for their milk, there was nothing in the act which authorized distributors to get together and agree among themselves on the retail price to be charged consumers.

After a lengthy trial, at which voluminous testimony was taken, the circuit court concluded that there was no unlawful agreement in violation of the Michigan antitrust laws, and denied the application of the prosecuting attorney to have the dealers' association dissolved.

The court took the position that the agreement by which the retail price of milk was increased was part and parcel of the agreement to increase the price to the producer and could not be separated therefrom.

Meanwhile another factor appeared in the Detroit milk situation.

Then it goes on subsequently and explains the entry of the Johnson Milk Co. into the field, and the establishment of these milk depots throughout the city, and states it resulted in the reduction of the price, which was stated over there in the conclusion, which I have already read.

Now, this also says:

The price he paid—

That is Johnson—

is usually 5 or 10 cents higher than the blended base and surplus price received by the producer selling through the Michigan Milk Producers Association.

Mr. BEACH. That is the same part I read.

Mr. DAVIS. Is it not a fact that Mr. Johnson has uniformly paid a higher price for the milk received by him than the blended price of the producers' association?

Mr. BEACH. He probably, on an average, has. But while so doing, that means if you understand the blending process correctly, that he buys his milk for less—that goes into the fluid-milk sales—than what the distributors do that buy from the Michigan Milk Producers Association.

Mr. DAVIS. In that connection you stated this morning that about 60 percent of the producers generally went into fluid-milk sales and about 40 percent into processed. If Mr. Johnson states, and if his books show, that he is now and has uniformly sold about 60 percent of the milk he bought in bottles, and processed about 40 percent, your reasoning just given does not apply, does it?

Mr. BEACH. Yes; it still does apply, because you have got to remember one or two things in connection with that. In the first place, the 60 percent is taken at this time of the year, when the

amount of milk is less than it is at some other times of the year. If you recall, he stated—

Mr. DAVIS (interposing). I am talking about averages. I supposed you were talking about averages. So am I.

Mr. BEACH. I am not talking about yearly averages. I have submitted the yearly averages to your committee. Those are on file with you. And whatever those figures show, that is exactly what it is, and I can't change it. But it wouldn't be 60 percent.

Still further, out of that he, from his producers or those from whom he buys, takes nothing whatsoever to assist in taking care of the milk which has to be taken care of in the market rather than to simply be shut off if a producer finds himself in that unfortunate position.

Mr. DAVIS. You referred to that two or three times, and several times in your written statement, to his cutting people off, and you have filed as evidence a telegram to one producer. Have you any evidence, if so I will ask you to please produce it, of his having cut off any except that one producer?

Mr. BEACH. Based upon information which I believe to be true, he has done it. This is an incident that I am very familiar with that happened just last week. When the Johnson Milk Co. came into Grand Rapids and started to purchase milk, he contracted a hauler and got him to work up three separate routes. After those routes were worked up and became probably paying milk routes to haul milk into his plant, he unceremoniously, according to what the hauler told me, on only a day or two of notice, was eliminated from further hauling milk. The cans were taken away from him, and Johnson put his truck on to take over that business that this hauler had worked up, and he said, according to what this hauler told me, that if the producers didn't like that, they could keep their milk at home.

Mr. DAVIS. What is the name of the man you are talking about?

Mr. BEACH. The name of the man is Clarence Larson, at Belmont, Mich.

Mr. DAVIS. He was not a producer but a trucker?

Mr. BEACH. He was a producer and a trucker.

Mr. DAVIS. What he cut him off from was hauling milk; was it not?

Mr. BEACH. That is true, he cut him off from hauling milk, and forced the producers to accept something that we maintain a producer doesn't have to accept. We have maintained that it was the producer's privilege and right to designate in what manner he was going to get his milk from his farm to the first point of delivery. That has come up many, many times.

Senator KING. Mr. Witness, don't you think it would be better to answer the questions, instead of making explanations of matters that are not relevant?

Mr. BEACH. I thought this had quite a bit to do with it; maybe not. Pardon me if it doesn't have. He asked me the question, if I knew about any of these being cut off.

Mr. DAVIS. Now, if Mr. Johnson has stated in the letter to the Federal Trade Commission that that is the only one instance in which he cut off a producer, can you produce any evidence or have you any other letters from any of them to the effect that he cut off anybody else, except the man that you talk so much about?

Mr. BEACH. Naturally, I am not in the business of going around to find out why certain people are cut off.

Mr. DAVIS. Mr. Chairman, I would like for the witness to answer the question, and then if he wants to make a pertinent explanation, of course, he can do that. I asked him if he could furnish any letters or telegrams from any other producer or trucker either, except the one he produced.

Senator KING. He can answer that "yes" or "no," if he wants to.

Mr. BEACH. I started to say I didn't make a business of going around and collecting that information, therefore, I have none other to present.

Mr. DAVIS. But you have repeatedly spoken in general terms in your statements, oral and written, to the effect that it was his habit to do that.

Mr. BEACH. Yes; but I haven't further evidence than messages that have come to me to that effect.

Mr. DAVIS. Mr. Chairman, I shall not take time to read the letter unless it is desired by some member of the committee.

The CHAIRMAN. May I say that as I see it, the issue here is not the individual conduct of Mr. Johnson. I don't think it is a matter of very material interest to the members of the committee. The issue here is the type of organization which has been effected to control the price of milk to the consumers. This witness has very frankly testified that the producers have been organized in order to maintain the price for producers. Now, as a representative of an agricultural State, I have endeavored to do that myself for the agriculturalists of Wyoming, particularly those who are interested in producing sugar beets, because I believe that the farmer must be given a price that will enable him to produce at a profit. But that is a matter of opinion. What we are seeking for here are the facts, and the substantial fact, it seems to me is, What is the relation between the price that the producer gets and the price that the consumer has to pay? That is a question which has not been answered altogether, without regard to the personal activities of Mr. George A. Johnson.

Mr. DAVIS. Now, Mr. Chairman, I agree with you as to that, with this suggestion. Mr. Johnson has testified before this committee that he paid more to the farmers for milk than the producers' association did. That is corroborated in this report to the Governor and just admitted in effect by Mr. Beach. He also stated that he was selling, that he went in there and commenced selling, cheaper to the consumer than the others were selling, and that is admitted and shown conclusively.

The defense offered by Mr. Beach is a constant and continued effort to try to destroy Mr. Johnson and make him out a very bad character, and I just wanted to show that by documents, just in regard to some of his statements, you, when you boil the stuff down, understand the fact that he has half a dozen times in his oral and written statements spoken in general terms of his cutting off—"Of course, if he just cut off anybody when he wanted to, he could do that." I think that is important. He says that is the way Johnson can do this, and Johnson denies it, and, we think, if they have any evidence more than the one letter, which is explained here and which Mr. Johnson will further explain if desired, that that is pertinent to the whole question, as this report to the Governor says.

The CHAIRMAN. The witness said he doesn't have any more evidence, so that puts an end to it.

Mr. DAVIS. I know, but that is what I want to show.

Now, then, you stated at the beginning of the testimony that this afternoon you had just received a message that Mr. Johnson had cut the price of milk to the consumer again. Is it not a fact that the other distributors in Detroit cut the prices 2 cents a quart about 3 weeks ago?

Mr. BEACH. I understand that while it might not be a bilateral 2-cent-per-quart reduction, they did reduce their price to approximately the same amount as the Johnson Milk Co. has been selling milk for previous to this time. I understand that they met that competition, or came pretty close to it anyway.

Mr. DAVIS. And they having cut theirs 2 cents a quart, he cuts his from 6 and 8 to 5, 6, and 7. In other words, they cut the price 2 cents, and then he met that by cutting his 1 cent.

Mr. BEACH. No; they didn't meet him because they weren't at the meeting point in the first place. In other words, the 2-cent drop brought their price down approximately to where his price was, not less, and then when they came down to meet his price, quite largely the 1st day of April, or about there, he now, according to the wire that I have received, has dropped once down below that.

Mr. DAVIS. Isn't it a fact, as stated in this report, that even back then some of the dealers were selling milk in stores as low as 5 cents a quart?

Mr. BEACH. Not to my knowledge. It may have been true, but not to my knowledge it wasn't true.

Mr. DAVIS. There are quite a number of other dealers besides Mr. Johnson who are selling on the cash-and-carry plan, are there not?

Mr. BEACH. I believe so.

Mr. DAVIS. Before we adjourned for lunch we were discussing the question of audit, and you stated that you had two auditors.

Mr. BEACH. That is right.

Mr. DAVIS. And that the 10,000 of your members who sell their milk in Detroit to 41 distributors—

Mr. BEACH (interposing). It is approximately 41, that is near enough for practical purposes.

Mr. DAVIS. These accounts involve a sale in two classes, to be determined upon the use for which the milk was put. That is correct, is it?

Mr. BEACH. Not exactly, excepting it is partially correct. If you determine that, the difference between that and the purchases is the other. All you have to do is determine one and you have the other automatically.

Mr. DAVIS. Well, now, this report states that in order to determine this price under that plan, it was necessary to employ higher mathematics. Is that correct?

Mr. BEACH. Well, to those of us that work on it it is rather simple arithmetic, but I don't know just what you mean by higher mathematics.

Mr. DAVIS. That is the report to the Attorney General.

Mr. BEACH. All right; I will accept it.

(Senator King assumed the Chair.)

Mr. DAVIS. This is entitled "Detroit Milk Prices, How Calculated, Facts and Figures, Michigan Milk Producers' Association, Detroit Mich.," and this is a 19-page document, is it not, telling how to calculate the price the farmer is to get for his milk.

Mr. BEACH. There is a lot of other information besides that.

Mr. DAVIS. Doesn't everything in here, as the title implies, relate to the method of calculating the price?

Mr. BEACH. Either directly or indirectly; yes.

Mr. DAVIS. I would like for the members of the committee to examine that. Yet you say it is a simple method.

Mr. BEACH. Yes; to those that are familiar with it.

Mr. DAVIS. I would like it to be filed in the record, but not printed unless somebody else desires it.

Mr. BEACH. We filed one of these, by the way, as an exhibit.

(The document referred to was marked "Exhibit No. 436" and is included in the appendix on pp. 3235.)

Acting Chairman KING. It doesn't provide for the use of logarithms in ascertaining it?

Mr. BEACH. Oh, no; it is supposed to be simplified to the point where probably a sixth-grade student could understand it.

Mr. DAVIS. You stated this morning that if any producer was dissatisfied and felt that he was gyped, he could make a complaint?

Mr. BEACH. Oh, no; it is supposed to be simplified to the point

Mr. DAVIS. Yes.

Mr. BEACH. Yes; that is right.

Mr. DAVIS. Now, how does he know the use to which the milk was put which he sold and which was first carried to a collecting or receiving station out in the State somewhere and blended with milk of other farmers into a tank truck, and then brought in and sold to some distributor?

Mr. BEACH. He knows the answer to that question through accepting the statement and report of certified public accountants that do the auditing to determine just that very thing.

Mr. DAVIS. Do you say that two auditors could follow the milk of 10,000 farmers every day, distributed by 41 distributors, and see to what use it was put, whether it was sold in bottles to the consuming public, or converted into ice cream or cheese, or powdered milk, or some of the various other surpluses?

Mr. BEACH. That is my statement.

Mr. DAVIS. And two men can do that?

Mr. BEACH. Yes, sir; they do do it. They only have to audit—let me explain; it will help to clear it up for you. The report comes in at the end of the month from each distributor. That report is accepted as being true. At the end of approximately 3 months, or it might be every month, if there is a question arises; then the audit is made of the distributors' records.

Mr. DAVIS. You mean reports accepted by you as secretary-manager?

Mr. BEACH. For the purpose of figuring the price, yes; and then the next thing that happens is the audit is made. Not necessarily every month, but possibly every third month, or whatever the time may happen to be.

Mr. DAVIS. Mr. Chairman, I have in my hand photostats of seven checks given to producers by different distributors in Detroit, dur-

ing the month of April 1939 in which the price is stated and we have a witness here by whom we can prove that he cashed these checks and had the photostats made, if there is any question about them.

Acting Chairman KING. Have you seen these checks? Would you look at them to see whether you can see that they are correct photostatic copies? Would you question them?

Mr. BEACH. No, I would not. I have no way of knowing, but I would take it for granted they are probably correct.

Acting Chairman KING. May they be Exhibit A, then. If necessary we can identify them later.¹

Mr. DAVIS. Now, Mr. Beach, will you please examine those sufficiently to state whether or not they purport to be checks given in April for milk delivered in March 1939?

Mr. BEACH. There are just two checks, aren't there? Those two that I find; others are statements, I believe; these two are; these others are—

Mr. DAVIS (interposing). Statements which accompanied the checks, I think.

Mr. BEACH. There are two checks, five statements; and two additional statements accompanying the checks.

Mr. DAVIS. Now you issue, or rather your association issues, a Michigan Milk Messenger, association organ, does it not?

Mr. BEACH. Yes.

Mr. DAVIS. Now, in your April issue you give the gross base price at Detroit of 3.5 test per hundredweight, \$1.68, do you not?

Mr. BEACH. That is right.

Mr. DAVIS. Now, that is for class 1 milk, is it not?

Mr. BEACH. No; that is for base milk.

Mr. DAVIS. That is for what is sometimes called blended?

Mr. BEACH. Yes; that is a blend of approximately 90 percent of all the milk that the association sold in the Detroit market for that particular month.

Mr. DAVIS. Then there follows, less pool, 5 cents; less dues, 3 cents, making a total of 8; leaving net base price at Detroit \$1.60 and gross excess price at Detroit 3.5 test per hundredweight, \$1.25, from which is deducted the 5 cents pool fee, and the 3 cents dues, leaving a balance of \$1.17. Now, do any of those statements accord with the price given here, or do all of them accord with it?

Mr. BEACH. I cannot answer this question because I don't know through what station this man happens to be selling milk. I cannot identify it from his name and address, where he sells milk, whether he sells it in Detroit market or whether he sells it to a condensery that doesn't have anything to do with this price, or not. I cannot tie the two together from the information I have. I would rather take it from this, however, that he is a shipper of uninspected milk at a condensery, but that is just my guess.

Mr. DAVIS. Now, would the Detroit base be written on it if it was sold somewhere else to a condensery?

Mr. BEACH. No. The Detroit base would not, but it might say "base" on it as far as that is concerned; it says "base" on it here, but does not say what his base is.

¹ Introduced, *infra*, p. 2937, as "Exhibit No. 437," appear in appendix, p. 3244.

Acting Chairman KING. Is there no identification mark to indicate the particular city or community or station from or to which the milk was sent and from whom the check was issued or by whom the check was issued?

Mr. BEACH. It says "OV" here; possibly that means Ovid; it might mean that.

Acting Chairman KING. Is that near Detroit?

Mr. BEACH. About 100 miles out.

Mr. DAVIS. In the Detroit area, isn't it, milkshed?

Mr. BEACH. Yes and no. There is a milk-receiving station there from which inspected milk comes into Detroit, and there is also a condensery there owned and operated by the Detroit Creamery Co.

Mr. DAVIS. The Detroit Creamery Co. is a subsidiary of what company?

Mr. BEACH. Of the National Dairy Products.

Mr. DAVIS. National Dairy Products, which is one of the Detroit distributors, is it not?

Mr. BEACH. That is right.

Mr. DAVIS. Well, aren't they supposed to pay the Detroit price? They are supposed to buy from you, are they not?

Mr. BEACH. Their condensery milk at Ovid; no.

Mr. DAVIS. Whatever milk?

Mr. BEACH. No; we don't sell condensery milk to them at Ovid.

Mr. DAVIS. May I have those just a minute? Now here is one check given by Bordens, Detroit, Mich., pay to the order of John Ajoff, \$12.27, and they have 1,627 pounds base milk, price \$1.05, total amount \$17.08. Now, that is dated April 13, 1939. How do you reconcile that base there with this base that you gave in the Messenger for March?

Mr. BEACH. The Messenger states that that is f. o. b. Detroit, Mich.; doesn't it? I haven't it before me, but I think it says—

Mr. DAVIS. It says "gross base price at Detroit."

Mr. BEACH. This other is net check at his farm. That very largely explains the difference between the two. The hauling has to come out, just the same as in the case of Johnson, the hauling comes out of his \$1.50 price.

Mr. DAVIS. Now, he gets 85 cents a hundred pounds for his milk, doesn't he?

Mr. BEACH. You have the check and I can't see from here.

Mr. DAVIS. I beg your pardon.

Mr. BEACH. Well, I fear again, Judge Davis, that what you have here is a check from a man selling uninspected milk out of the Detroit milkshed over which we have nothing to do, whatsoever, because it says "Bad Axe" on it, and if it is true it comes from Bad Axe,¹ then it is uninspected milk, because we have no members that sell milk from the Bad Axe receiving station.

Mr. DAVIS. Well, did Borden buy uninspected milk?

Mr. BEACH. Oh, yes; they buy a lot of uninspected milk and make it into evaporated milk at different places. It couldn't be sold in Detroit market as fluid milk because that would be in violation of the Detroit Board of Health, and they would put them out of business over night, if they tried it.

¹ A town in Huron County, Mich.

Mr. DAVIS. Now, you spoke about and stressed the fact that the man, of whom the producer made the complaint about Mr. Johnson, said that he got his pay 14 days late.

Mr. BEACH. That is right.

Mr. DAVIS. Now, isn't it a very common occurrence for all the distributors to be that late in sending out checks?

Mr. BEACH. No, sir; if we sold milk to a distributor that was that late he wouldn't get his milk.

Mr. DAVIS. Now, here is Borden's check dated April 13, 1939, for March milk, and here is the Detroit Creamery Corporation, which you say is a subsidiary of National Dairy Products. The check is dated April 15 for milk delivered in March.

Mr. BEACH. Yes; but—

Mr. DAVIS. And of course they were not received by them until after it had been through the mail?

Mr. BEACH. Yes; I think I can explain that to you. The check that you have dated the 13th of April in payment for March milk?

Mr. DAVIS. Yes, sir.

Mr. BEACH. That check is due and payable to the producer upon the 15th of April. He undoubtedly received it on the 15th of April. That is the date that it is due. Now, the statement that I make relative to Johnson is that he tells the farmers that he only holds 15 days back, that milk that he gets the first 15 days of the month he will pay for upon the 1st day of April, and he does not live up to that agreement, but he sometimes is as much as 14 days late, and to the best of my knowledge no distributor to whom we sell that pays the farmers is late like that with his checks at all.

Mr. DAVIS. Now, that communication to you did not make all that explanation, did it? Didn't it just say he was 14 days getting his check?

Mr. BEACH. Beyond the due date; it is perfectly clear to me what he meant and he is, of course, one of several hundred that has been in that position.

Mr. DAVIS. Now, the only statement that the farmer gets of the milk he delivers and the price which he gets is either on the check or the accompanying statement, such as these; is that correct?

Mr. BEACH. That may not be the same copy that is used in a great many cases. The statements may differ but it would be a statement or the information that is on the check relative to his particular shipments is on the statement or the check, not necessarily that one.

Mr. DAVIS. This is the way your association members handle it, is it not?

Mr. BEACH. We send a statement accompanying the check.

Mr. DAVIS. Now I want to pass these around to members of the committee and let them see that is the notice the farmer gets.

Mr. BEACH. Would you allow me to just make a statement that may help clear up the contention relative to the difference in prices? You will note that while our blended price—I believe you quoted at \$1.60 in the Michigan Milk Messenger there; wasn't that what it said?

Mr. DAVIS. \$1.60 after you deduct fees.

Mr. BEACH. That is right; after everything is deducted the average price on all that base milk, and after you took the surplus milk into consideration and averaged it, it was \$1.56 f. o. b. Detroit, as compared with Johnson's price of \$1.50 f. o. b. Detroit. That, of course, is covered in my statement.

Mr. DAVIS. At the same time, I understand, he paid a higher price than the blended price?

Mr. BEACH. I don't admit any such a thing. It isn't true, and I am unwilling to admit something that I know is untrue.

Mr. DAVIS. Doesn't he pay a larger price than your blended price?

Mr. BEACH. No; he does not always; no, sir; he doesn't always do that. Sometimes he doesn't do it, and he certainly pays far under what we maintain that our fluid-milk price is at which we sell as compared with what we sell our fluid milk at.

Mr. DAVIS. Well, but he pays the same price for everything and you pay one price for the fluid milk, and a much less price for what is processed. That is true, isn't it?

Mr. BEACH. Yes; that is true, but the average between the two is still above his average.

Mr. DAVIS. Well, you disagree with the statement made then?

Mr. BEACH. I was just going to say that when that report was written that report was true, and I am still willing to accept it as being true. But since that time, in relationship to our price, he has dropped his price considerably more than what our price has dropped.

Acting Chairman KING. May I ask one question, Mr. Witness? Is it not a fact—by putting it in that form, I don't mean to commit myself to any view—but is it not a fact that there has been a great deal of complaint, not only in the Detroit district but in the milkshed of Washington, the milkshed of California, the milkshed of Chicago, and other milksheds that there has been some juggling—and I don't use the term offensively—by which they would differentiate the milk and they would allocate to it inferior grade of milk, so-called, although it was just as good, a disproportionate amount of the entire amount, that you reduce the aggregate amount which the producer ultimately got?

Mr. BEACH. I can only speak for the Detroit market and, as far as I know, while your question is somewhat indefinite, and based upon the indefiniteness of it, I couldn't say that it is true in Michigan markets, with which I am familiar. I wouldn't want to say anything about any other market because naturally not being familiar with it I probably wouldn't make a correct statement.

Acting Chairman KING. Hasn't there been a classification of the milk which is obtained by the distributor which has been unfair to the producer of milk and certainly unfair to the consumers?

Mr. BEACH. Well, if we thought so we certainly would immediately set about to correct it, and everything has been done that possibly could be done to make sure that was not the situation. Your question is not too specific, but from what I understand of it I would have to say that, Senator King.

Mr. DAVIS. Now you stated this morning in response to, I believe, Senator O'Mahoney, that your association didn't require a distributor to contract to buy any specified amount of milk. That is correct, isn't it?

Mr. BEACH. Well, that is exactly what I stated. I can't think of any variation from that at all.

Mr. DAVIS. Now you also have stated and referred to it more than once, that Mr. Johnson applied to your association to buy milk and that you offered to sell to him on the same terms and conditions as you did other distributors.

Mr. BEACH. That is right.

Mr. DAVIS. This is the letter to which you referred, is it not, the one of August 10, 1938?

Mr. BEACH. Yes; I have a copy here.

Mr. DAVIS. Now I just wish to read a little from it, addressed to Johnson Milk Co., attention Mr. George A. Johnson:

We are in receipt of your letter relative to purchasing milk, either from the Michigan Milk Producers' Association or from milk dealers of Detroit. Speaking from the standpoint of the Michigan Milk Producers' Association, I wish to say that we can and are willing to supply you with milk. Any milk which we furnish to you will be sold to you at the same price and under the same conditions as we sell to other dealers to whom we sell in Detroit. You state you want milk from 200 additional farms, at 200 pounds per day per farm. This is 40,000 pounds of milk daily.

We will furnish that quantity subject to modification mentioned herein and you will agree to purchase and pay for same for the period of 1 year from date.

Mr. BEACH. That is right.

Mr. DAVIS. Now that imposed a condition which you say you do not impose upon other distributors?

Mr. BEACH. We, in starting out with other distributors, have reached an agreement with them in starting with them new that they would purchase milk from us for a period of a year, so that is the same as the arrangement made with other distributors that were starting to buy from us.

In August 10, 1938, though we aren't interested in making this kind of an arrangement to sell milk to a new buyer at the same price that we sell to other buyers, on August 10, 1938, and then after the short season is over with, of November, then have that distributor feel that he is in a position to not use the milk any longer, and then will go ahead and cut that milk off. Now then, if we were only going to sell to him for a short time we couldn't sell to him at the same price that we sell to other distributors; we would have to charge him more money.

Mr. DAVIS. Well now there is nobody else involved on this, though, except Mr. Johnson, is there? You are selling to all the other distributors, the 41 with whom you are dealing, without any agreement on their part to take it through May or June or any other time, isn't that correct?

Mr. BEACH. Well, I just got through stating that in starting to do business with other dealers—

Mr. DAVIS (interposing). I know. First answer my question. You are not requiring that of any one of the 41 dealers with whom you are doing business?

Mr. BEACH. Took it all the time?

Mr. DAVIS. Yes.

Mr. BEACH. Yes; we are.

Mr. DAVIS. How do you reconcile that statement that you do not require them to take any specified amount or for any specified length of time?

Mr. BEACH. If they take the requirements; they are supposed to take the requirements.

Mr. DAVIS. Well, "supposed to," but there is no contract about it, is there?

Mr. BEACH. I understand legally that there is an implied contract, but let me get this situation clear to you. We have done business with quite a few of the same companies ever since we started 23 years ago, and, occasionally, we have some distributors who quit doing business with us. We don't feel that we have to be concerned about whether they are going to continue to buy milk from the Michigan Milk Producers' Association or not. That is not a point at issue, particularly with those companies. After the rise we try to meet it when it does arise with any company, but here is a new company that starts in. Here is a company with whom we have a court record, such as I referred to here, that wants to buy milk from the Michigan Milk Producers' Association, or at least so his letter would imply.

We know him; we know we have had to go into court; the second time we went in he settled an account with us under threat of prosecution through court. We understand those things and we know his record of payment to producers, and we know how he has unceremoniously cut off producers; therefore we tried to surround it by making it clear to him that we start in selling to a new distributor by asking him to buy his milk from us for a year. I could name other distributors that have started in business during the last 5 or 6 years and that is part of the agreement that we had with them.

Mr. DAVIS. Well, why did you say, then, that that is correct, that you didn't require them to take any specified amount or for any specified length of time?

Mr. BEACH. But Mr. Johnson wrote the letter and said he wanted the milk from 200 farms. In other words, we replied to him and said, "We will give you what you want." He specified his requirements and so we told him we would give him that. Now some other dealer might put it differently. Some other dealer might not mention 200 farms; might merely say that we want our requirements, but Mr. Johnson went so far as to say that he is in the market for milk from 200 additional farms. Therefore our reply to him was not that "we will give you your requirements," but "we will give you that for which you ask."

Mr. DAVIS. At the same time you treated him differently from what you have any of the others?

Mr. BEACH. No, sir; we did not, according to the best information I have.

Mr. DAVIS. Will you please name another distributor who has entered the business in which you required him to sign up for a year? You asked Johnson to sign this, didn't you?

Mr. BEACH. That is right.

Mr. DAVIS. You have a place for him to sign it up?

Mr. BEACH. Well, one that I recall right offhand is the MacDonald creamery—C. A. MacDonald Creamery Co.; they started in during the last 6 or 8 years; and another one was the Risden Co.

Mr. DAVIS. Risden Co. is likewise independent?

Mr. BEACH. That is right. And another one was W. J. Kennedy Dairy Co. Most companies—

Mr. DAVIS (interposing). Neither one of those belonged to the trust, did they? They were not milk dealers' associations; they were selling cash and deliver?

Mr. BEACH. You say they were selling cash delivery?

Mr. DAVIS. Isn't that a fact?

Mr. BEACH. One of them was selling entirely to a group of chain stores. In fact, the MacDonald Creamery Co. started very largely by selling milk to one group of chain stores, and the other one was house-to-house delivery.

Senator KING. May I ask a question? What did the farmer get for the milk a quart in your shed, and those with whom you deal?

Mr. BEACH. You have to take into consideration——

(Senator O'Mahoney resumed the chair.)

Senator KING. How much does the farmer get?

Mr. BEACH. All right; how far from Detroit do you want the farmer to be?

Senator KING. In your milkshed, those with whom you deal.

Mr. BEACH. They receive different prices because those who live farther from the market gets less than those close in, or do you mean f. o. b. Detroit?

Senator KING. Tell me what is the average, say within 10 miles of Detroit. What is the farmer getting?

Mr. BEACH. If that is of particular importance, maybe it justifies me taking just a moment to do a little figuring. Is that right? Do you mean for his base milk or do you mean for his average?

Senator KING. Give me the entire volume which he sells to you.

Mr. BEACH. That has to be manufactured as well as that that goes in the fluid milk, is that right?

Senator KING. All right, segregate it later, if you want to. He gets about 2 cents a quart, doesn't he?

Mr. BEACH. I will give you the right answer in a moment. He gets too little, I will promise you that.

Senator KING. Why don't you divide with him?

Mr. BEACH. You ask that of the distributors; approximately 3 cents per quart at his farm.

Senator KING. That is the entire amount, is it?

Mr. BEACH. That is for all of his milk.

Senator KING. I find here a farmer got 85 cents for 46 quarts.

Mr. BEACH. You ask me within 10 miles of Detroit, for Detroit milk? How far out is this man?

Senator KING. March 16, 1939, he got the figures which I have indicated.

Mr. BEACH. Is that the Bad Axe check, Senator, out of the fluid-milk territory, over which we have nothing to do?

Senator KING. I don't know what it is.

Mr. BEACH. Is that the Borden check? This is the Bad Axe check.

Senator KING. The word "base" means Detroit, doesn't it?

Mr. BEACH. The Borden Co. can explain this.

Senator KING. You know from your experience. Doesn't that base mean Detroit?

Mr. BEACH. No, sir; and I think this check is a Bad Axe check; Apparently they send this statement, form of statement of check that accompanies the payment for milk through the condenseries

which they own in Michigan, as they do when they pay for fluid milk that comes into the Detroit market. Or inspected milk that comes in.

Senator KING. Regardless of where the milk came from, there are 46 quarts indicated there for the price indicated?

Mr. BEACH. For uninspected condensery milk, out in the State of Michigan, outside the fluid-milk territory.

Senator KING. Wasn't that within the fluid territory?

Mr. BEACH. I thought I made it clear that it was not.

Senator KING. Doesn't the State inspect?

Mr. BEACH. Not to my knowledge they don't.

Senator KING. Haven't they inspected there?

Mr. BEACH. The Detroit milk supply is inspected by the city board of health of the city of Detroit.

Senator KING. Is that the only inspection in the whole State of Michigan? You know to the contrary, don't you? You know there is a milk inspection there throughout the State?

Mr. BEACH. Not to my knowledge; no. To the best of my knowledge, there is not.

Senator KING. Generally speaking, there, what is the spread between the amount the farmer gets, the producer gets, and what your organization gets, and what the distributor gets, what the consumer pays?

Mr. BEACH. I wouldn't want to attempt to answer that question without properly preparing the figures so that when you receive them from me you could depend upon them as being as accurate as the other information that I tried to give. Let me make this suggestion: I do feel, however, that what you can get in the course of testimony that might be offered by milk distributors themselves, a complete break-down of that portion of the consumer's dollar that goes for any particular purpose whatsoever. So your question would be very well answered and much better than what I could now.

Senator KING. Isn't it a fact that the farmer in any part of Michigan and in all parts of Michigan doesn't get more than from 2 to 3 cents for his entire milk output?

Mr. BEACH. Right now that is true.

Senator KING. And what does the consumer have to pay? What is the spread between what the farmer gets and what the consumer has to pay?

Mr. BEACH. You are talking about two separate things.

Senator KING. Of course they are. I want to know what the farmer gets, who produces the milk, for producing the milk, and what the consumer has to pay for it.

Mr. BEACH. This is evaporated milk. If you want to know what the consumer has to pay for this—

Senator KING. The entire amount that the farmer sells to your organization. If the farmer brings to you a hundred quarts or a thousand quarts, what does he get?

Mr. BEACH. I tried to answer that question based upon 10 miles out that you spoke of just a moment ago, approximately 3 cents per quart. The consumer might pay all the way from 5 cents per quart up for this same milk, but you have got to understand that what you asked me, Senator King—

Senator KING (interposing). No; what does the consumer have to pay for it? Answer that question.

Mr. BEACH. The portion——

Senator KING (interposing). That portion which you stated is approximately 3 cents within that area that you stated, what does the consumer have to pay for it within the same area and for the entire quantity of milk which he produces?

Mr. BEACH. I will attempt to answer your question the best I can. In the first place, there is approximately 60 percent of that milk today that goes into fluid milk.

Senator KING. I don't care how much; how much does he get for his milk that he sells to you?

Mr. BEACH. I cannot answer the question unless you let me give you the complete statement and just exactly as it is.

Senator KING. It seems to me you can answer that. If a man brings a load of wheat, beets, or anything, he knows what he is getting for the entire amount. If a man brings to you during the month a thousand gallons of milk, what does he get for that, and what do the consumers have to pay for that thousand gallons?

Mr. BEACH. That statement is absolutely unanswerable unless you let me make a complete statement relevant to it. Otherwise, I can't answer it, because it would appear to be misinformation.

Senator KING. We will assume you can't answer it—I will, at least.

Mr. BEACH. I can answer it, but I have got to give the right answer or else I don't want to give it.

The CHAIRMAN. Mr. Beach, while Judge Davis is looking over the record, the colloquy which has just been going on returns to a question which I suggested, if I did not ask, earlier in the afternoon, namely, that the central fact in this situation, as in many others, is What is the difference between what the producer gets and what the consumer has to pay? Now, can you give me your answer to that question?

PRICE OF MILK PAID PRODUCERS COMPUTED ON "CLASS" BASIS

Mr. BEACH. Yes, sir; I can, I hope. Here we have, in the sale of this milk, we have out of each hundred pounds that is produced by this producer, approximately, last month, 60 pounds of that, or 60 percent, that goes into fluid-milk channels for which the price, f. o. b. Detroit, of \$1.90 was received. Now, if that is divided by $46\frac{1}{2}$, it will give you the price per quart that the producer received for that.

Unfortunately, there are 40 pounds of milk that are left, quite a bit of which has to go for manufacturing purposes, and, for the most part, it is made in two or three different products. It has been going into cream that oftentimes has been going into butter, and, frankly, for the dollar that the consumer has been paying for butter the producer has been getting for that approximately 90 cents out of that dollar. A portion of it has been going into powdered skimmed milk, and out of that, out of the resale price—I don't know just what the proportion is—but the proportion is fairly large that he gets out of that. And so you can——

The CHAIRMAN. You do know the proportion, don't you?

Mr. BEACH. Not right offhand. I couldn't answer that right offhand, and my percentage may not be right in conjunction with just the percentage that he receives from that portion that goes into butter. However, the percentage is much higher on that that goes into butter than it is the case of fluid milk.

The CHAIRMAN. In other words, the producer gets a certain price for fluid milk and he gets a certain different price for that amount of the milk which is used for butter and another price for that amount of the milk which is used for powdered skimmed milk.

Mr. BEACH. Well, the powdered milk is made from the skimmed milk that is taken off from which the cream is made that goes into butter. It is——

The CHAIRMAN (interposing). I am not concerned about——

Mr. BEACH (interposing). It is the same 40 pounds of milk.

The CHAIRMAN. The original special price for that, it is included in the price he gets for his butter?

Mr. BEACH. That's right.

The CHAIRMAN. How about evaporated milk?

Mr. BEACH. Well, it might go into evaporated milk instead of butter.

The CHAIRMAN. How many different classes are there?

Mr. BEACH. Just two.

The CHAIRMAN. The fluid and the butter?

Mr. BEACH. The fluid and manufacturing, but the manufacturing might be in the butter, evaporated milk, or one of several other things.

The CHAIRMAN. Does he get a standard price for this which goes into manufactured products?

Mr. BEACH. Yes; our price has been based upon the evaporated milk price plus 15 cents per hundredweight.

The CHAIRMAN. Which is the greater, the price he gets for fluid milk or the price he gets for the manufactured?

Mr. BEACH. The price he gets for fluid milk which has been \$1.90 f. o. b. Detroit for almost a year now.

The CHAIRMAN. Do you ever have any complaints from the producers that an unduly large proportion of the milk that they sell is paid for upon the basis of the manufactured rate instead of the fluid rate?

Mr. BEACH. Yes. In fact, all producers would prefer to have it all paid for upon the basis of the fluid milk.

The CHAIRMAN. That is what you call bottled milk, is it?

Mr. BEACH. That is right. These two prices are blended together when the producer gets his check; he gets the blended price, but nevertheless in making up that price there are those two component parts that go to make the combination.

The CHAIRMAN. And the blended price is less than that which is paid for the fluid milk?

Mr. BEACH. That is right.

The CHAIRMAN. Because it is an average.

Mr. BEACH. That is right; and more than that which is paid for manufactured milk.

The CHAIRMAN. Some purchasers of milk who are not engaged in manufacturing pay only the fluid rate. Is that right?

Mr. BEACH. Well, there aren't any in quite that category that don't have any that is used for other purposes than the fluid-milk trade. There is no distributor that can put himself in that position and so that wouldn't be strictly true. However, there are many that have considerably less, have maybe only 10 percent of manufactured milk over and above fluid sales, while some other distributors may have as much as 70 percent that is manufactured and 30 percent that goes into fluid milk.

The CHAIRMAN. Do any of these distributors pay for their milk upon the basis of a fluid rate which is less than the fluid rate which is part of your computation of a blended price but which at the same time is greater than the blended price?

Mr. BEACH. If I get your question correctly, the answer to that is that there are none that do that, but there are some that do this, that pay—and here is something that is wrong in the Detroit milk market as stated in the report and to which I will readily agree—that a distributor may pay the blended price but buy shorter than the average of the market. He should pay more than the blended price, you see, if he buys short. If most of his milk goes into fluid-milk channels, he should pay more than the blended price, but he doesn't—he pays the blended price; therefore, he might gain some difference between the two there.

The CHAIRMAN. Now, in the case of Mr. Johnson, to whom reference has been made on various occasions this afternoon, what was the price that he paid?

Mr. BEACH. The last price that I know of that he paid was a dollar and a half for all milk, f. o. b. Detroit.

The CHAIRMAN. How did that compare with the blended price?

Mr. BEACH. That was 6 cents less.

The CHAIRMAN. Than the blended price?

Mr. BEACH. Let me see. Our price for all of February—I have all those prices here somewhere, but let me stick to the one that I had quoted in the testimony, or the statement that has been made to the committee, the last half of February. I have the letter which Mr. Johnson wrote to his producers stating that his price starting the 16th of February was \$1.50 f. o. b. Detroit, and our price for the month of February was \$1.56 for all milk f. o. b. Detroit for the same month.

The CHAIRMAN. If any dealer, Johnson or anybody else, was offering a price so much lower than your blended price, where did he get his customers?

Mr. BEACH. You mean his producers?

The CHAIRMAN. His producers.

Mr. BEACH. He got them when he paid more. He started out to pay \$1.95 for a year, which, as I understand, he did. I understand he gave a definite contract. I understand still further that he told the producers that he would talk it over with them at the end of the year as to what would be done after that time, but he sent a letter out to them when the year was out stating that he had decided to reduce the price from \$1.95 to \$1.40 when the year was up, and the producers, a lot of them from that time to this have written in to the association asking if they could come back to the association, but particularly at this period of the year, we have plenty of milk to

handle, and if we took that milk which may be a surplus for him now, it would merely mean that it would have to be manufactured and would lower our blended price.

The CHAIRMAN. So they don't fit into the situation now at all except that the lower price that is being paid by this independent—

Mr. BEACH (interposing). That is right. This hauler, for instance, came to me and said that 75 percent of the producers on his route would like to come back and ship through the association.

PROPORTION OF PURCHASE PRICE OF MILK RECEIVED BY PRODUCER

The CHAIRMAN. Now, then, going back to your own price, by and large on the average, what proportion of the price the consumer pays is received by the producer?

Mr. BEACH. Just a moment, here. Let me figure this out. For that portion that is used as fluid milk it is slightly over 4 cents per quart delivered at Detroit. The blended price which Senator King asked me about is slightly under 3 cents, if you turn it back to the farm, on the haul which comes directly into Detroit.

The CHAIRMAN. Let me put it this way: Of course there has been a change, apparently, in the price that the consumer pays, according to this report which has received the endorsement of everybody concerned, it being an accurate statement of the facts. The price of milk at one time to the consumer, of bottled milk, was extremely high, I mean it ran as high as 10 or 11 cents.

Mr. BEACH. Yes.

The CHAIRMAN. Then there was some court action of one kind or another and the price to the consumer broke, did it not?

Mr. BEACH. That is right.

The CHAIRMAN. It was much lower.

Mr. BEACH. It broke, I wouldn't necessarily tie it up with the court action, but it broke anyway.

The CHAIRMAN. Whatever the cause was.

Mr. BEACH. That's right; it came down.

The CHAIRMAN. So there has been a variation in the price to the consumer.

Mr. BEACH. That is right.

The CHAIRMAN. Now, by and large, speaking now of bottled milk, does the producer receive as large a proportion of that final consumer's dollar as you as a representative of the producer believes he should?

Mr. BEACH. That is a most difficult question to answer upon today's market.

The CHAIRMAN. You pick your market and answer it seriatim.

Mr. BEACH. The continuing prevalence of our price that we have had for the past few months, with the extremely low price that exists in the city of Detroit today, I would say that we get as much as we can expect to get and be anywhere near reasonably sure we will get pay for it, which is a very big concern today as to whether those to whom we sell milk can continue to pay for their milk.

The CHAIRMAN. Up until the time when the price broke, from whatever cause, what was the situation then with respect to the spread?

Mr. BEACH. The relationship? I believe that it would be of interest to you to go back just a little bit. When our price was \$1.45, this

goes back to about 1933, the price of milk to the consumer off the wagon, which is the one which is oftentimes quoted, usually the one that is quoted, was 9 cents. Then the price went up to the producer to \$1.85, which was 40 cents out of the 46½, and the price went up to the consumer to 10 cents. Then the next move in the market was the price went, to the producer, to \$2.25 for fluid sales milk, or another 40 cents out of 46½, and the price to the consumer went to 11 cents.

Then there were other things that came into the market that had a tendency to increase, as distributors claimed—that is up to them to show and not to me. They claimed that there were certain expenses that entered in that made it impossible to sell milk at 11 cents and pay \$2.25. That is when the price of milk went to 12 cents off the wagon, generally speaking, and the producers' price went to \$2.48. In other words, that was a direct split of 46 cents out of a hundred pounds of milk, and 23 cents went each way.

Then the price for 15 days was \$2.68 to the producer and it was 13 cents to the consumer; and then the price broke and started down again and when it started down, instead of going down by easy stages of \$2.48, \$2.25, \$1.85, it landed at \$1.90, but this matter of resale was almost every conceivable price. There were many different prices prevailing so far as reselling was concerned and so today it is rather difficult for me to say what the reselling price of milk is.

TRANSPORTATION CHARGES PAID BY FARMER

Mr. DAVIS. You stated that last month your association paid \$1.90 for bottled milk, f. o. b. Detroit. It doesn't mean that the farmer got that much, does it?

Mr. BEACH. No; because transportation charges have to come out.

Mr. DAVIS. Now let's see, there has to be deducted from that \$1.90, 5 cents pool charge, 3 cents association dues, the transportation charge from the farm to the receiving station, and the transportation charge from the receiving station to Detroit. That is correct, isn't it?

Mr. BEACH. Yes; unless it comes in direct, and if that is the case, just from the farm directly to Detroit.

Mr. DAVIS. In that event he has to bring it himself or hire somebody else to do it.

Mr. BEACH. That is right; the farmer pays the transportation.

Mr. DAVIS. Isn't it a fact that the average transportation charge from the farm to the receiving station and from the receiving station to Detroit in this Detroit milkshed is about 40 cents.

Mr. BEACH. Approximately 37 to 40 cents.

"SPREAD" BETWEEN PRICE PAID TO PRODUCER AND THAT PAID BY CONSUMER

Mr. DAVIS. Then 40 cents and then 8 cents used in fees would be 48 cents to be deducted from what the farmer gets for the milk that is sold. That would leave \$1.42 for 100 pounds that the farmer would get, and there are forty-six-and-one-fraction quarts in a hundred pounds. Is that correct?

Mr. BEACH. Yes.

Mr. DAVIS. On that basis there was considerable spread when they were charging 12 cents and 13 cents to the consumer, wasn't there?

Mr. BEACH. There's always been considerable spread, I'd say.

Mr. DAVIS. Isn't there considerable spread right now when they are selling milk for 5 and 6 and 7 and 8 cents right now, cash and carry?

Mr. BEACH. There is considerable. I don't know whether you would say there is too much or not, but it is considerable.

Mr. DAVIS. In other words, for handling the milk for 1 day in Detroit they get approximately twice as much for the milk as the farmer gets for owning his farms and operating it and his herd and feeding them?

Mr. BEACH. That is right. The producer isn't getting anywhere near what he should get for proper levels.

Mr. DAVIS. We were talking about what you were paying them last month for bottle milk.

Mr. BEACH. For what, did you say?

Mr. DAVIS. Bottle milk.

Mr. BEACH. Oh, milk that goes into bottles.

Mr. DAVIS. Now, the excess milk the same month is \$1.43.

Mr. BEACH. Yes.

Mr. DAVIS. From which is to be deducted this same 48 cents?

Mr. BEACH. That is right.

Mr. DAVIS. That gets it down to about 85 cents for 100 pounds.

Mr. BEACH. That is right.

Mr. DAVIS. Isn't it a fact that even before Mr. Johnson went into this area there were times when you got even less than you are getting now?

Mr. BEACH. Yes; in—

Mr. DAVIS (interposing). Within the past few years.

Mr. BEACH. Well, in 1933, I think when butter was 16 cents per pound the price on milk in Detroit was less to the producer than what it is today.

Mr. DAVIS. How about 1934? You follow the figures here?

Mr. BEACH. Well, whatever the figures are there, that is it; those are the facts.

Mr. DAVIS. I hope the members of the committee will examine these figures. Then in 1935 and 1936—isn't it a fact that after Mr. Johnson went into the market the price to the farmers increased for some time?

Mr. BEACH. Well, the best thing to do is to look at the record as to when he came in and what the price was and whether it did increase or decrease. You have that there before you.

Mr. DAVIS. He went in in the spring of 1936, didn't he?

Mr. BEACH. When did he come into the market?

The CHAIRMAN. January 1936.

Mr. DAVIS. There is some variation and then it certainly held its own and then in 1937 the all-milk price ranged from \$1.98 to \$2.28, which was even more than the preceding year, or in 1935 and 1934.

Mr. BEACH. That is right.

Mr. DAVIS. Yes; so he didn't break the market to the producers then, did he?

Mr. BEACH. No; it was a couple of years before he really broke it.

Mr. DAVIS. How could one man break the market when he was 1 of 59 dealers and sells only a relatively small percentage of the milk that is sold in Detroit?

Mr. BEACH. Is that a question, Judge?

Mr. DAVIS. Yes, sir.

Mr. BEACH. I doubt if you can say that the Johnson Milk Co. all alone broke the market. There are approximately 14 or 15 distributors that pay that—pay on a basis somewhat similar to what he does—and it undoubtedly is a combination of that that had a tendency to break the market down to an unduly low level. Now, this is probably true, that the price of milk, both to the producer and the consumer, should have been lowered somewhat.

In other words, there are changes from year to year and from one time of year to another time of year relative to supply and demand and cost of producing milk, and so on, so that enters into the picture. But—let me go just a little further just to finish the statement—when he began to take and sell enough milk and take enough customers so that it became a vital factor so that other prices were lowered to meet that, and then when he was purchasing his milk for less money than what the distributors were to whom we sold, then just as the report indicates, which we have referred to several times, on page 53, I think it is, or maybe 61, then the other buyers insisted that they should be privileged also to buy milk for less money, and on account of the one buying for less and the pressure of others that insisted that they should be privileged to buy for less or buy on an equality with the other fellow, that is what reduced the price to what seems to me to be an unduly low level from the standpoint of the producers.

Mr. DAVIS. The complaint in many industries is that there is no competition in buying, and, if there is only one buyer, one or two or three buyers, that there is no competition and they have to sell all the time in a buyers' market. Generally speaking, is it not true that the more people there are wanting to buy a commodity that somebody else wants to sell, the more competition there is for it, and it is more likely to boost the price instead of the reverse.

Doesn't that obtain everywhere else? Isn't that a well-known matter of economics?

Mr. BEACH. Well, I haven't particularly observed that that was true in the milk business. I wouldn't want to say, without carefully thinking it through, whether that is the philosophy that seems to work out definitely in selling milk or not. I haven't observed that it does.

Mr. DAVIS. Mr. Chairman, of course there are many matters that might be asked about, but I don't want to take up the time of the committee too long, but I would like to ask Mr. Beach what your previous experience and connections were before you went into your present position.

Mr. BEACH. I will be very glad to answer that. In the first place, I was born and brought up on a farm, Tuscola County, Mich. I went to Michigan State College for 4 years, was graduated from there and then taught agriculture in a high school for 2 years at Hart, Mich. After that I became county agricultural agent. My particular work as county agricultural agent had to do with cooperative marketing organizations. After serving 2 years in that particular county, I was called into another county to act solely on the matter of organizations in connection with cooperative marketing. That was in the Detroit fluid-milk shed and, as a result of that and becoming acquainted with the dairymen that had to do with selling fluid milk,

they wanted me to become associated with the Michigan Milk Producers' Association as an employee, which I did, which was approximately 17 years ago. After about 8 or 9 years—I have forgotten just how long; that is immaterial—and during which time I served as assistant secretary to the Michigan Milk Producers' Association, the secretary resigned and, therefore, they asked me to become secretary-manager of the Michigan Milk Producers' Association, in which capacity I have served during the last, I think it is about 10 years, but it might be 8. It is whatever it is, anyway; whatever the record shows.

Mr. DAVIS. Are you identified in any way, either as a holder of stock or interest or otherwise, in any concern engaged in the milk industry?

Mr. BEACH. I am a stockholder in the Michigan Producers Dairy Co., which is a cooperative organization, organized under the Capper-Volstead Act, at Adrian, Mich., and which the Michigan Milk Producers Association helped organize. That is the only company in which I have any financial interest in any way, shape, or manner whatsoever, and I am a part of that the same as hundreds and probably thousands of other farmers are in the State of Michigan.

The CHAIRMAN. There are the exhibits which have been presented. Have them printed in the record.

(The exhibits referred to were numbered "Exhibits Nos. 436, 437, 439, and 440," respectively, and are included in the appendix on pp. 3235, 3244, 3245, and 3246.)

The CHAIRMAN. Which statement is that?

Mr. BEACH. That is the statement I started to read this morning, and I feel it probably should be made a part of the record.

The CHAIRMAN. You will be satisfied if we file it?

Mr. BEACH. Yes, yes.

The CHAIRMAN. You see, there is a difference between the printed record and filing.

Mr. BEACH. I didn't understand.

The CHAIRMAN. This may be filed, not to be printed in the record.

(The statement referred to was marked "Exhibit No. 438" and is on file with the committee.)

The CHAIRMAN. Is there any further statement that you care to make, inasmuch as this hearing has been held at your request and I want you satisfied that you have had every opportunity to make a statement.

Mr. BEACH. I think there is just one statement that maybe I ought to make to clarify the record, based upon a question that was asked by Judge Davis, I believe, this morning. He asked about this pooling proposition, and the amount of money that was involved, and it just happened that I happen to have with me for the purpose of studying our auditors' report the last report that our organization has on that, and I thought that maybe just this might be said relative to it. It rather seemed to me that you were endeavoring to point out that maybe 5 cents per hundredweight or a half million dollars was quite a lot of money. It is, but you must understand that this business which we do is approximately \$20,000,000 worth of business per year, and the report for the first 6 months of the fiscal year starting the first of October and ending March 31, 1939, shows the reserve that has been retained from that is \$12,643.26. In other words, the amount

of money that you have spoken of aside from this reserve is paid out by the month each month to the producer, and it is not the accumulation of a great deal of money and finally paid out or retained.

Mr. DAVIS. But in addition to that you have been collecting 3 per cent dues which don't go into that pool at all, but go for whatever you want to use it for in the association, and that, as you said this morning, amounts to about \$15,000 a month. That would be \$180,000 a year. That is correct, isn't it?

Mr. BEACH. I gave you the exact statement, the last financial statement.

Mr. DAVIS. That is essentially correct, about \$180,000 a year that you collect that is not dissipated in any pool arrangement?

Mr. BEACH. That is right. That is from the entire organization. Now, I might say—

Mr. DAVIS. And you now have in the treasury approximately \$300,000.

Mr. BEACH. That is right, and that \$300,000, you want to remember what that has to do besides carrying on the activities of the association.

Mr. DAVIS. I just asked for the facts.

Mr. BEACH. That among other things is money which has been used for the expenditure or the purchase of several plants for the benefit of the members, and is the reserve behind the guaranty of pay of better than a million dollars' worth of milk per month, and under these circumstances my chief worry is whether there is enough in the reserve to be sure that the farmers will get their pay.

Mr. DAVIS. Why do you have misgivings about \$108,000 a year being sufficient when you have only had to pay for losses \$150,000 all told in the past 12 years?

Mr. BEACH. Because under the present conditions there can enough distributors go into bankruptcy in Detroit this month or the month after that they would be owing the farmers something like fifty to one hundred thousand dollars in toto.

Mr. DAVIS. But—

Mr. BEACH. Just a moment. And the producers naturally can't receive in payment for their notes brick and mortar which is now used in receiving stations and so forth that have been purchased or built, and therefore there must be a very substantial reserve because those producers must have their money. I am very proud to say that the Michigan Milk Producers' Association has shown a steady growth financially and has over a period of years remained in the black and on the right side of the ledger.

Mr. DAVIS. And yet you fixed a 3-cent fee on every hundred pounds of milk from every farmer and commenced collecting approximately \$180,000 a year without any reference to and prior to the present situation, did you not?

Mr. BEACH. The producers in Michigan that are members of the Michigan Milk Producers' Association have even gone further than that. In some markets they said that it must be 6 cents. Why? Because they want an organization that uses as much as 6 cents for the service of the members of the organization. They themselves—just a moment, Mr. Davis—decide that amount, and let me point out that there is just one service that is rendered that may pay that

twice over and that is the butterfat check testing to be sure that they are correct on that, which oftentimes means 4 cents per hundred-weight on their milk, and if they have that alone the chances are it pays more than the cost of the operation of the association.

Mr. DAVIS. You say that some of the members said that. As a matter of fact, there is not entire unanimity in your organization, is there?

Mr. BEACH. Oh, no; you can't get 17,000 farmers all to agree.

Mr. DAVIS. You had some very stormy meetings recently which you called, did you not?

Mr. BEACH. That is right. I will be glad to have you come to one if you want to.

Mr. DAVIS. And the hostility toward you was such that you had to be escorted from the hall by policemen, is that not a fact?

Mr. BEACH. That is not true. I never was escorted from any meeting by policemen with the exception of one where the policeman asked me to go in and talk to a group of producers which they were having trouble in handling. They said, "You go in with us and then you go out with us."

Mr. DAVIS. This paper here, The Advertiser-Monitor, doesn't give the facts correctly, does it?

Mr. BEACH. That is right; it does not give them correctly.

The CHAIRMAN. Newspapermen will please take note. [Laughter.]

Mr. DAVIS. This is the Advertiser-Monitor, of Mount Clemens, Macomb County, Mich., March 17, 1939. [Reading:]

OFFICERS ESCORT BEACH TO SAFETY

Three members of the Michigan State Police of the Romeo Post and four Macomb County sheriff's officers were called to Droop's Hall at Waldenberg at 10:30 last night to escort Bernard Beach, secretary-treasurer of the Michigan Milk Producers' Association, from a mass meeting of 500 farmers when fears were felt for his personal safety at the hands of a group inimical to the association. Pale and obviously shaken at the hostility of the farmers, many of them members of the newly formed Cost of Production Club from various other counties who had allegedly packed the meeting, Beach left the speaker's stand.

Now, you called that meeting, didn't you?

Mr. BEACH. That meeting was called of certain locals of the Michigan Milk Producers' Association. It was supposed to be certain locals in Macomb County. I have got to give you the setting. I think you will appreciate it. This hall is over a saloon, and when I went in previous to the time of opening the meeting the saloon was filled. The other part of the building was a store downstairs. I went upstairs. The seats were all filled. Shortly after I started to talk, the other people came up. After a few minutes they started doing a certain amount of heckling, and I don't know that there was any booing then but a certain amount of heckling; everybody wanted to ask questions at once, and some people insisted on asking the same questions several times. There were several people there that I noted—I would like to have you get this, Mr. Davis, I think you will enjoy it—came there from Lapeer County, many of whom sell to the Johnson Milk Co., and people came there from Oakland County that had no right in the meeting at all; and they came and attended the meeting and they didn't want to meet at all, they didn't want to hear the

facts that I was talking about that might lead to their approval of this bill that was talked about in conjunction with this particular document that we have referred to so many times this afternoon; and so I didn't see any State police at that meeting—and it is peculiar that I didn't if they escorted me out—until after I had walked out alone, got out in front of the hall, and there were two State police sitting in their car; I don't think they ever saw me; they didn't look my way, and I didn't know they were interested in me, and therefore I took no occasion to speak to them. I went to my car and went home alone.

I understand that Mr. Johnson made the statement on the witness stand down here that I didn't go to a meeting in the country alone. He cannot prove it, excepting one meeting that I can recall during the last 3 months when I have ever had anyone with me to attend any meeting in the country. And on top of that, this same group of people have followed me at meeting after meeting, people that had no right to be there, people that were not members of the Association, and carried on in the same manner; and Mr. Johnson went still further; he had someone call my office one day to find out if I was going to a meeting about a hundred miles away, because apparently he didn't want to send anyone there, that was so far away, unless he was cocksure that I was going. He also went to a radio station in the city of Detroit and asked them to announce a meeting over the radio that was going to be held out at Grass Lake, Mich., one night when this group was going to meet, because he seems to show a considerable interest in them. Then, still further, there also are rumors that he has gone out of his way and to great lengths to try to help this group become a rumpus.

The CHAIRMAN. I really think this has nothing to do with the price of milk.

Mr. BEACH. He raised the question, Senator, and therefore I think it had to be said.

Mr. DAVIS. If Mr. Johnson is breaking the farmers' milk price, why is it that he has so many friends among them?

Mr. BEACH. If you want to go into that, here is a matter of court record—

The CHAIRMAN. Mr. Beach, I really think that this is just a matter of personalities.

Mr. BEACH. I am able to do it, Senator, if you will let me.

The CHAIRMAN. I think the committee is not interested in any further elaboration in this phase of the interview. Let me state again, have you presented, from the point of view of the producers, the relevant facts which you desired to present when you asked permission to come here?

Mr. BEACH. Yes; I have, and unless there are further questions that the committee wishes to ask of me, with this reservation: If there is testimony given that is untrue and anyone that has previously testified is given an opportunity to offer any rebuttal, I would like to have the same courtesy extended to me that is extended to them. That is all.

The CHAIRMAN. You may present any requests to cross any future bridges when they appear.

Mr. BEACH. That is all right.

The CHAIRMAN. Tomorrow Mr. Davidow, I believe, will appear. Mr. LARRY DAVIDOW.¹ I am here with Kenneth Vardon, president of the United Dairy Workers.

The CHAIRMAN. Does Mr. Vardon desire to give some testimony?

Mr. DAVIDOW. He certainly does, Mr. Chairman.

The CHAIRMAN. When the committee assembles tomorrow, Mr. Vardon will be called.

Mr. DAVIDOW. May we inquire when and where the meeting will be called?

The CHAIRMAN. I will make that announcement.

There are here several documents which have been presented to the committee during the recess of the hearings, in response to various requests from members of the committee. They are here offered for the record, to be printed in their appropriate places.

The committee will now stand in recess. Before I declare the recess, Mr. Beach, let me thank you for your presentation throughout the day.

Mr. BEACH. Thank you for the courtesy extended.

The CHAIRMAN. The committee will stand in recess until 10 o'clock tomorrow morning in this hall.

(The documents referred to were marked "Exhibits Nos. 431, 432, 433, and 434.")²

(Whereupon, at 5:10 p. m., a recess was taken until Tuesday, May 2, 1939, at 10 a. m.)

¹ Counsel for United Dairy Workers, Detroit, Mich.

² "Exhibit No. 431" is included in Part II, appendix, p. 830. "Exhibit No. 432" is included in Part VI, appendix, p. 2720. "Exhibit No. 433" is included in Part VI, appendix, p. 2721. "Exhibit No. 434" is included in Part V, appendix, p. 2276.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

TUESDAY, MAY 2, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:30 a. m., pursuant to adjournment on Monday, May 1, 1939, in the Caucus Room, Senate Office Building, Senator Joseph O'Mahoney presiding.

Present: Senators O'Mahoney (chairman), King, and Borah; Representatives Reece and Williams; Messrs. Henderson; Davis; Ferguson; Lubin; and O'Connell.

Present also: Thomas C. Blaisdell, representing Securities and Exchange Commission; Robert E. Sher, representing Department of Justice; Donald Montgomery, Consumers' Counsel, Agricultural Adjustment Administration; Senator Homer T. Bone, chairman, United States Senate Committee on Patents; Willis Ballinger, director of studies and economic adviser to Federal Trade Commission; Guy C. Gamble, chief of Temporary National Economic Committee studies for Federal Trade Commission; Andrew Tackett and R. A. Putzier, attorney examiners; Wilbur Baughman, attorney; and Kemper Simpson, economist, Federal Trade Commission.

The CHAIRMAN. The committee will please come to order. A request was made on behalf of the United Dairy Workers, of Detroit, to file a statement with the committee and to present the gist of that statement to the committee in public hearing as a result of the previous hearings of this committee on the milk situation in Detroit. Mr. Vardon is here this morning in response to the action of the committee granting his request to appear. Are you ready to testify, Mr. Vardon?

Mr. VARDON. I am.

The CHAIRMAN. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. VARDON. I do.

TESTIMONY OF KENNETH VARDON, PRESIDENT, UNITED DAIRY WORKERS UNION, DETROIT, MICH.

The CHAIRMAN. Please state your name.

Mr. VARDON. Kenneth L. Vardon.

The CHAIRMAN. What is your position?

Mr. VARDON. I am president of the United Dairy Workers Union.

The CHAIRMAN. Of what State and city?

Mr. VARDON. Detroit, Mich.

The CHAIRMAN. How long have you held that position?

Mr. VARDON. Since the start of the organization in the early part of 1937.

The CHAIRMAN. How many members in the organization?

Mr. VARDON. At the present time we have about 3,100.

The CHAIRMAN. What are their classifications?

Mr. VARDON. We are an industrial organization. We have the plant men, the transportation drivers from the country to the city, the deliverymen, the wholesale drivers, anyone who is employed in one of our contract dairies is a member of our organization.

The CHAIRMAN. How many contract dairies do you have?

Mr. VARDON. Twenty-three.

The CHAIRMAN. How many dairies are there in the city of Detroit?

Mr. VARDON. About 54 or 55 at the present time.

The CHAIRMAN. What proportion of the dairy workers of comparable classifications are members of your organization?

Mr. VARDON. I'd say that, in answer to that I can answer on the volume of business in the market. We represent about 83 or 84 percent of the workers which pasteurize and deliver about 84 or 85 percent of the volume of the business in the city of Detroit, metropolitan area.

The CHAIRMAN. How many of these dairies with which you have contracts are under independent management, and by independent management I mean management for the particular dairy, the individual dairy, without any other dairies?

Mr. VARDON. You mean they have no other affiliations than their own particular concern?

The CHAIRMAN. That is right.

Mr. VARDON. There are only three of all our contract companies that have any other affiliations so far as they are concerned.

The CHAIRMAN. What are those three?

Mr. VARDON. Detroit Creamery and Ebling Co., which are units of the National Dairy Co., and the Borden Co., W. J. Kennedy Co.

The CHAIRMAN. Is the W. J. Kennedy Co. a national company?

Mr. VARDON. It is operated by the United Dairy Co., of Philadelphia.

The CHAIRMAN. How many dairies in the Detroit area are managed by the National Dairy Products Corporation?

Mr. VARDON. Two.

The CHAIRMAN. How many by the Borden?

Mr. VARDON. One.

The CHAIRMAN. Now you may proceed and make your statement, Mr. Vardon.

ORGANIZATION AND PURPOSE OF UNITED DAIRY WORKERS

Mr. VARDON. Due to circumstances involved here I would just like to present a background of our particular organization. We organized; in years gone by the workers of the dairy industry worked very long hours in the plants. They used to work 12 and 14 hours per day and on the routes we used to start at 12 and 1 o'clock in the morning and continue through until 4 and 5 the next afternoon. Now, I myself worked those hours, and it was unbearable.

As things started, as far as Michigan was concerned, in the line of organization, the employees in the dairy industry got together and formed our organization. We have no one eligible for membership in our organization unless he is a member working in a dairy industry in our particular locality. The officers and the executive board of the organization are all composed of men who came from the rank and file. In other words, they were formerly workers either in a plant or on a milk route, with a number of years of experience.

I myself went into the dairy industry about 9 years ago. We organized and attempted to get contracts for negotiation; we negotiated all one summer and were unable to come to any settlement, and we had to proceed then to call strikes, and at one time we had a very chaotic condition in the city, where we had several dairies on strike at one time. I say at one time; we had as much as 30 percent of the volume of milk in the city of Detroit stopped on deliveries because that was the only means which we had of obtaining our contracts.

We have one of the finest contracts, I think, in existence between a labor organization and management in the country, and are very proud of it. It is very complete; it goes into all of the details involved in the particular industry. We found, though, that after they had been in operation (it was signed and agreed to in October of 1937)—that after the contract was in effect for 4 or 5 months—the economic conditions of the market were such that the small individual and independent dairies were coming to our organization asking for wage relief.

We tried to understand their problem and went so far in some cases as to audit their books or have their books audited. We found they definitely were not making money; that in a large number of cases the smaller dairies were operating at a loss even then. We did not at that time give any wage concessions, but later on when the price broke, in May or April I think it was, of 1938, it was necessary that our organization take steps in order to maintain our jobs in some of these smaller plants, to give wage concessions.

The CHAIRMAN. These were the same plants which you say were not making money, according to your audit?

Mr. VARDON. That is right.

The CHAIRMAN. And when you speak of a wage concession you mean a concession from the point of view of the operator of the dairy; you mean an increased wage for the worker?

Mr. VARDON. No; I mean a reduction from the contractual wage, which they had previously been paying the employees.

The CHAIRMAN. In other words, you, as the organization, were considering whether or not you would accept a reduction of wage in order to meet the reduced economic status of the operator?

Mr. VARDON. That is right. It was necessary that we do that. You see we have seniority, and so on, and so forth, a working condition which to the fellows' tenure of job is very valuable, especially in a city such as Detroit where for example the work in the automobile industry is so very insecure. Therefore in our industry it was necessary for us to understand the economics of our particular companies in which these men were working in order to maintain our jobs there.

The CHAIRMAN. You regarded it as a matter of supreme importance to your members that stability of employment be secured?

Mr. VARDON. Very true. That is our position on it. In the forepart of, or in the early part of 1938, I would say around in May, our organization went on record that the employees in any given plant, it was optional to them if they thought it was sound for them to take a wage reduction in order to preserve their jobs, that the organization would sanction a movement of that kind.

In the following months we had, I think, about seven or eight different small companies that appealed to their members or to their employees and as an organization I went out speaking for the organization and recommended that the employees take a wage reduction in order to maintain these companies in business until something happened in the dairy industry which would make it possible for the companies to pay the former contract wages, or that there was legislation or something that would clear up the chaotic condition then in existence in the market.

Therefore, about eight or nine of the small companies took wage reductions and instead of the condition getting any better it has continually gone from bad to worse. We have for the last 2 years made a study. We have understood the problems of cash and carry. We analyzed the reaction, what has happened in various other markets where cash and carry has dominated, and we have absolutely no objection to any particular system of distribution, provided it is tried fairly, and I don't think that cash and carry distribution in Detroit has ever been tried fairly.

Now, in various other markets, California, for example, we have attempted to get information regarding it and we found that the information I have on the situation is to the effect that at the present time it is practically a public utility affecting the California area at this time. Now we had no desire of that in the State of Michigan, but we thought it was necessary to have some means of regulation where evils of competition would be eliminated. We know of instances where a caretaker in an apartment house is getting 20 and 25 percent for allowing various milk companies exclusive use of his particular building to distribute his milk to the tenants therein. We know of cases downtown in the large wholesale shops that are getting 35 and 45 percent off the list price, rebates. We know that that is being taken out of the payment to the farmer and to labor, and we felt that there should be some means of controlling that under the laws of the State of Michigan at this time. We absolutely as an organization have no option of telling the management that that is even an unfair practice, that it should be discontinued.

The CHAIRMAN. Who indulged in these practices? You spoke of caretakers of apartment houses as No. 1.

Mr. VARDON. The dairies. It is one of the evils of the competitive system.

The CHAIRMAN. I understand. You said caretakers of apartment houses would receive compensation for permitting particular dairies to serve the tenants in their building.

Mr. VARDON. That is right.

The CHAIRMAN. What was the other practice?

Mr. VARDON. Other practices, the one I spoke of specifically was the giving of large rebates or discounts below the list price.

The CHAIRMAN. To whom?

Mr. VARDON. The large stops, large wholesale stops and even large retail stops, in order to secure the volume of business. It is a common practice that has been going on to my knowledge for a number of years.

The CHAIRMAN. And you felt that these two practices particularly operated to reduce the price to the dairy farmer upon the one hand, and to make the employment of the dairy workers unstable upon the other?

Mr. VARDON. That's right. We took this position: We have observed the manner of competition for a number of years. I, myself, have been on a milk wagon selling directly to the home consumers, and I know some of the trade evils that exist at the present time.

The CHAIRMAN. Do these evils of which you speak still exist?

Mr. VARDON. They definitely do.

The CHAIRMAN. They definitely do?

Mr. VARDON. They do; yes. At one time we had milk distributors giving anything from bicycles and floor lamps and mixers, electric mixers, and all kinds of premium items of that type, in order to secure business. We know that that costs money, and therefore the consumer is indirectly paying for it or else it is coming out of labor or the farmer. Somebody must suffer when somebody else gives something away, and therefore we advocated and have advocated for years, for the past 2 years, that there be some type of regulation in order to control these trade evils in the State of Michigan.

I was appointed to and served on Governor Murphy's milk commission in the latter part of 1938, and my position in relation to milk control perhaps is very similar to that of Mr. Beach. That is, I am very definitely in favor of the present type of control legislation which was just recently passed by the lower house in the State of Michigan.

The CHAIRMAN. As a member of this commission you were one of those who had recommended the passage of this legislation?

Mr. VARDON. That is correct.

The CHAIRMAN. In other words, to boil it down to a simple statement, the position you take is that in order to protect the farmer and to protect the worker it is necessary in the milk industry to do away with the old competitive system and establish some sort of public control, whether we call it regimentation or not—public control—the purpose of which is to maintain the price for the producer and to stabilize wages and employment for the worker.

Well now, how about the effect on the consumer?

Mr. VARDON. Well, I am of this opinion, that as a labor organization we must take a position in relation to the price the consumer will pay. It must be a fair price. I know enough about the dairy industry to say that in my opinion for labor it certainly would be foolhardy to attempt to set a price that was out of line with the ability of the consumer to pay, or the quality that the consumer receives on any dairy products. I believe that it is possible, that there are in the dairy industry enough good minds, whereas they can establish regulations, whereas the producer will receive a fair return for his product, that labor will receive a fair return for the amount of work that they do and the value of service they render to the

public, that the milk distributor or the capital invested in the industry can receive a fair return on their investment, and the consumer not pay an exorbitant price. The consumer will then pay a fair price, a price justified by the value of the product that they receive. We have no desire, and have never attempted to dictate or tell anybody the price at which they should sell to the consumer, although I have told the dealers in the city of Detroit when they have asked me regarding the economic conditions and the trade practices in effect that there was absolutely no sense to them competing on the basis that they have been competing for a number of years.

The CHAIRMAN. But if the producers organize on one hand and the distributors and the workers organize upon the other, what protection is there for the consumer against the raising of prices beyond what the consumer really ought to pay? You state that you would like to have fair prices, but what assurance is there that those fair prices can be obtained, in the first place, and then maintained?

Mr. VARDON. Well, in the first place, when you speak of the consumer, if you raise the price too high, he will not purchase your product. You will have a drop of consumption that will hurt the income of all parties concerned. We work on a commission basis. We receive proportionately on the amount of milk that we sell.

The CHAIRMAN. Of course that amounts to saying that so far as the consumer is concerned, you are willing to let the normal forces of supply and demand govern the price that he will pay.

Mr. VARDON. No; I was bringing out another point.

The CHAIRMAN. But for the others you want Government action.

Mr. VARDON. No; you are wrong there. That wasn't the intention of what I was trying to bring out. I was bringing out the point, whereas under labor's position naturally we have a selfish motive, we are interested in getting a fair return and not being exploited by unfair conditions, and therefore our system of receiving payment for our work is set up; whereas we receive payment on the amount of milk that we sell, if we sell a lesser amount at a higher price, our income is no more than if we sell a greater amount at a lower price. Therefore we are interested in keeping the price at a level at which the consumer can and will purchase.

For example, in my opinion, I think that under a 13- or 12-cent price in the city of Detroit today the consumption would very definitely drop. On the other hand, I don't think that the reduction that just recently was effective has helped consumption at all. I think in between there is a price at which the consumer will purchase. Below it won't have any effect. Above, it will.

The CHAIRMAN. Is there a lower price than that which is in effect which might be charged, which at the same time will produce revenue sufficient to protect the producer and the distributor and the worker?

Mr. VARDON. Lower than the present prices?

The CHAIRMAN. Yes.

Mr. VARDON. From what I know of the industry, I don't see how.

The CHAIRMAN. If consumption were increased, what would be the result, in your opinion?

Mr. VARDON. Below the present level?

The CHAIRMAN. If consumption were increased.

Mr. VARDON. At the present level of prices today?

The CHAIRMAN. Yes; or at any level.

Mr. VARDON. I don't think that even if consumption were doubled that the dairies cooperate fairly.

The CHAIRMAN. We are told, for example, by experts in the Department that the per capita consumption of milk in Detroit is about four-fifths of a pint. We are also told by doctors that not less than a pint per capita ought to be consumed, but that actually a quart per capita would be a reasonable and desirable consumption.

Do you and your organization make any attempt to increase that consumption, and if the consumption were increased and the price to the consumer were lowered, would the revenue still be sufficient to maintain the objectives that you desire to gain on behalf of your members and on behalf of the members of the producers association?

Mr. VARDON. Well, first, I think that we contribute more to an increased consumption than any other single factor involved in the market, and to qualify that I must add that the men whom I represent are all experienced, high-class, intelligent salesmen, and they go back day in and day out to their customers and try to explain to them the necessity of using more dairy products. Naturally, they have a selfish motive. At the same time they answer the problem of consumption and increased consumption very well. They do a very effective job. I have had experience on that and I know what I am talking about. I don't think, that under any other system, regardless of what it may be, would the per capita consumption increase any better than it does, or hold up at even the level it is at the present time, than through the men going back, constantly contacting a lady, explaining the valuation of it, the butterfat content, what that means, and the body of the milk. Most companies with which we have contracts attempt continually to educate their men. They, in turn, educate the public.

The CHAIRMAN. What about consumption among the relief families?

Mr. VARDON. I personally can't answer that. I haven't any statistics and I wouldn't guess. We don't have welfare milk at this time in the city of Detroit—fluid milk.

The CHAIRMAN. Can you say from your own experience whether or not the families on relief get a sufficient amount of milk?

Mr. VARDON. I can't say from my own experience; no. I know, for example, the supposition has been made that cash-and-carry distribution supplies the low-income families. In our city that is definitely not true. There are no cash-and-carry depots in the relief neighborhoods and the low-rent areas which really need that type service. There are none in those areas at all. Cash and carry in our city is distributed to the higher-class and middle-class people and it is not made available to the people in the lower-class neighborhoods.

The CHAIRMAN. Are you familiar with the bill which has just been passed by the Michigan House?

Mr. VARDON. Somewhat.

The CHAIRMAN. You have endorsed the bill?

Mr. VARDON. I have.

The CHAIRMAN. Is that the bill introduced by a Mr. Welsh?

Mr. VARDON. That is right, 116.

The CHAIRMAN. I have before me what purports to be a copy of that bill, introduced on January 26 by Mr. Welsh and referred to the committee on agriculture, and on March 29 reported, substitute

adopted, referred to the committee of the whole and placed on general orders.

I find here that section 5 provides [reading]:

There is hereby created a milk marketing board to consist of five members, as follows: The commissioner of agriculture shall be a member and the chairman of the board by virtue of his office, and four other members to be appointed by the Governor, as follows: Two shall be milk producers not connected with the distribution of milk except by a bona fide producer cooperative marketing association, both of whom shall have as their principal occupation and earn their principal livelihood by the actual management of one or more dairy herds, and two shall be distributors.

I understood from the testimony yesterday that it was provided that one of the members should be a consumer. Do you know whether or not the bill has been amended since that printing?

Mr. VARDON. Yes; I have the journal of the passage of that bill in the Lower House.

The CHAIRMAN. It is not necessary to get it if you testify that you know.

Mr. VARDON. Yes; it has been amended.

The CHAIRMAN. So there is now a provision for one member to represent the consumer?

Mr. VARDON. There is one consumer representative, one distributor, two producers, and the Commissioner of Agriculture.

The CHAIRMAN. I probably interrupted the statement that you desired to make, so you may proceed now.

Mr. VARDON. The position on the question you asked in regards to consumer, personally I think that all fairminded people and people who understand the dairy industry have absolutely no desire or would attempt at this particular enlightened time to exploit the consumer. It would be very definitely detrimental to the farmer; it would be detrimental to labor, and it would certainly be detrimental to the milk distributor. Now in the representation on that board, we take this position in regards to the bill. We know that we have in the State of Michigan not only in our Detroit market but in practically every other market within the State, a very chaotic condition. The farmers are to the point that unless some type of relief is done they are either going to take some very radical action to protect themselves or they are going to cease producing milk. If that happens, the consumer will definitely suffer.

The bill itself, while it is not the best document in the world, it is a start in Michigan. It gives the five-man commission the right to straighten out, to study, and to understand the fundamental things regarding the dairy industry.

Our position on it is the fact that it is like an automobile. You may have a very good car, but if you have an inefficient, poor driver, the car is no good, and the same thing in my opinion holds true with any administrative bill which has a board the type of this, that if we have a sound board, the board is sensible and working for the benefit of the industry, then the bill will be workable, it will be sound and beneficial to the farmers, to the consumer, and to labor. Whereas, on the other hand I don't think that any legislative body can draft a bill and put a poor administration to direct it and make it workable.

The CHAIRMAN. Have you any opinion with respect to whether or not the so-called cash-and-carry system or the establishment of such

cash-and-carry depots is a desirable thing if wages paid to labor are fair?

Mr. VARDON. I don't think as an organization that we could take the position of saying to the consumer, "You cannot go to the store if you desire it." I think that cash and carry is in the market and that it will stay if it operates fairly and can exist under honest, competitive methods.

The CHAIRMAN. Then does the organization have any opinion as between the delivery system and the store system?

Mr. VARDON. No; we deliver, but I think that we serve perhaps 10 times as many stores as Mr. Johnson¹ serves.

The CHAIRMAN. So your organization has no opinion?

Mr. VARDON. We have no opinion.

The CHAIRMAN. And no choice between the two methods?

Mr. VARDON. The only thing we ask is that they both compete honestly and fairly.

The CHAIRMAN. Have you made any study with respect to the form of container in which milk is delivered and the effect of increasing the size of the container upon the amount of milk consumed, and likewise with respect to discounts on deliveries of say 3 or 4 gallons?

Mr. VARDON. Well, your question is divided in itself.

The CHAIRMAN. There are two questions.

Mr. VARDON. First, the question involving the container is one that I wouldn't even attempt to answer. It is too controversial.

The CHAIRMAN. Why is it controversial? I am interested in finding out what the controversy is.

Mr. VARDON. Well, first, whether that would increase consumption or whether it wouldn't would require quite a lengthy survey and quite a lengthy study for anyone to answer that correctly; an opinion, yes, but facts would require a long time to get anything that was sound.

The CHAIRMAN. Is the controversy merely one of opinion as to whether or not it would increase consumption?

Mr. VARDON. That is right. In other words, you may have an opinion one way and I the other, and while I make some sound arguments on my side, there are still a lot left on yours.

The CHAIRMAN. I have taken no sides.

Mr. VARDON. Well, I know, but in any position there are always two sides.

The CHAIRMAN. Do you have any position on this question of discounts for consumers who buy 3 or 4 quarts of milk daily delivered at home?

Mr. VARDON. I don't think it helps consumption at all.

The CHAIRMAN. You don't think that the small discount which could be given on such a system would help consumption?

Mr. VARDON. No; I don't, honestly.

The CHAIRMAN. Proceed with any statement you care to make.

Mr. VARDON. I think I have practically covered my position in regard to it.

The CHAIRMAN. Commissioner Ferguson, do you desire to ask the witness any question?

¹ Mr. George A. Johnson, who testified before the committee on March 10, 1939. See testimony, p. 2829 et seq., supra.

Mr. FERGUSON. Just one or two questions, Mr. Chairman. Mr. Vardon, I understood you to say just a few moments ago that the cash-and-carry stores are not located in the sections in which persons on relief live but are in the wealthy and well-to-do sections.

Mr. VARDON. I beg to differ with you. I didn't say that. I said that the neighborhoods which need the cash-and-carry service and low-price milk are not being served at this time. I refer to sections of the city of Detroit such as, for example, south of Tireman Avenue. Anyone acquainted will know south of Tireman Avenue, just west of West Grand Boulevard, which is definitely a slum neighborhood.

Mr. FERGUSON. Yes; well, your testimony is on record there. Let it speak for itself.

Do you, by cash-and-carry stores, mean the same thing as milk depots? Is that true?

Mr. VARDON. That is true.

Mr. FERGUSON. In the statement that you filed with the committee I have found the following language: "A milk depot is an inexpensive store in a low-rent area." Isn't there conflict between that statement and the one which you have just made?

Mr. VARDON. I would say that the statement was incorrect if you are taking from that the inference that it is in a low-rent area where there are people who are on welfare living; if that is the inference you derive from the statement, I would say that it is incorrect.

WAGE SCALE OF ROUTE SALESMEN

Mr. FERGUSON. Mr. Vardon, what is the average wage that you pay your truck drivers?

Mr. VARDON. You mean the salesmen delivering to the homes?

Mr. FERGUSON. Yes.

Mr. VARDON. The men receive the rate of \$12 per week and 14 percent on the amount of moneys collected.

Mr. FERGUSON. Twelve dollars a week is the minimum?

Mr. VARDON. That is the salary; yes.

Mr. FERGUSON. And the commission on top of that.

Do they work every day in the week?

Mr. VARDON. No; they work 6 days a week.

Mr. FERGUSON. What would be the commissions on an average route?

Mr. VARDON. It is similar to what I attempted to point out to the chairman just previously, that depending on the amount of milk sold, for example, if the sales are \$800 a month or an average of \$200 a week, which they are not at this time, the men would receive 14-percent commission on \$200 collected and turned in, which would amount, as an example, to \$28 a week commission plus \$12, which would be \$40, although I hope you don't take that as an illustration of present conditions.

Mr. FERGUSON. How much do they actually get? What is the actual receipt?

Mr. VARDON. Of about 1,800 men on retail wagons, do you want me to strike an average? I would say at the present time they are averaging about 34 to 35 dollars a week.

The CHAIRMAN. Mr. Vardon, may I ask you, while the commissioner is looking at his notes, whether you have made any survey

of the difference in the cost of labor to the distributor between these two systems of home delivery and store delivery?

Mr. VARDON. The present cost?

The CHAIRMAN. Yes; the present labor cost to a distributor between the two systems.

Mr. VARDON. Yes.

The CHAIRMAN. Home delivery on the one hand and store delivery on the other. In other words can the distributor deliver more milk for the same labor cost to the cash-and-carry depots than he can to the individual in his home by the home-delivery service?

Mr. VARDON. That is where the differential comes in, between cash-and-carry system of distribution and the home delivery system.

The CHAIRMAN. What is the differential?

Mr. VARDON. I would say—well, as an illustration, Johnson, for example, pays girls \$12.50 a week, whereas on the other hand the girl may be doing, in serving, at least double the amount of milk that is being sold from a retail wagon. Now, you are going into a rather deep problem there because the large differential and his unfair methods of dealing has caused him to have an advantage of 4 cents, which is not economically sound.

The CHAIRMAN. Well, of course, it is obvious, I suppose, that a salesperson standing at a counter can handle more milk if the consumers come to the counter.

Mr. VARDON. That is right.

The CHAIRMAN. Than the the same person could handle if he had to go to the consumers in a wagon and go from house to house.

Mr. VARDON. Very true, but the point in there is the fact that it has never been really fairly tried.

The CHAIRMAN. What hasn't been tried?

Mr. VARDON. The distributing system. In other words, when I say that I must qualify it in this manner. There certainly is a difference between a cash-and-carry method of distribution, a differential which is advantageous to the cash-and-carry system over that of the home-to-home delivery, but first cash-and-carry must operate fairly, paying the farmers the same price, and at least paying a fair wage to their employees. Now that has never been tried in Detroit. Mr. Johnson has never operated in that manner.

Mr. FERGUSON. Mr. Vardon, do you know what Mr. Johnson pays his drivers, truck drivers?

Mr. VARDON. I don't.

Mr. FERGUSON. Don't you know that it is \$42 a week?

Mr. VARDON. I might answer that by saying I know that he pays his plant employees \$42 a week.

Mr. FERGUSON. Pays what?

Mr. VARDON. He pays his plant employees \$42 a week for a 12 to 14-hour day. Mr. Johnson made a statement to the effect that he was paying more than union wages, in his previous testimony; that is definitely not true.

Mr. FERGUSON. Do you know what he does pay them?

Mr. VARDON. He is paying them \$7 a day for 12 to 14 hours' work per day, whereas a union man receives \$6 per day for an 8-hour day, time and a half for overtime, 2 weeks vacation a year with pay.

The CHAIRMAN. Any other questions?

UNIT COST OF HOME DELIVERY

Mr. LUBIN. Do you have any idea as to the number of quarts that the average driver would deliver to households?

Mr. VARDON. Of course, it varies seasonally, but I would say at the present time the average driver is delivering about 200—we call them points—about 260 to 270 points daily.

Mr. LUBIN. Now, if you put that in quarts of milk, how would it run?

Mr. VARDON. It is difficult to answer because here the average milkman will deliver to perhaps 200 to 300 stops delivering cream and cottage cheese and the various products. Now, our analysis of a load is that a quart of milk is a point, or a half pint of cream is a point; a pound of butter is a point; a carton of cottage cheese is a point. Therefore, in summing up a milk route we say it has so many points, including quarts. Now, in different neighborhoods it will vary. A 240-point route, for example, in a low-rent area perhaps would carry 230 quarts of milk. The 240-point route in a high-rent area would probably carry about 180 quarts of milk. The balance would be composed of cream and products of that type.

Mr. LUBIN. Now, you say the average driver would make about 200 stops a day?

Mr. VARDON. I would say about 220 or 230.

Mr. LUBIN. And \$6 a day; in other words, the average cost per stop is about 3 cents?

Mr. VARDON. Well, right around there.

Mr. LUBIN. Now, is there anything in your contract that limits the number of stops a man shall make a day?

Mr. VARDON. No. We realize too well that in order to compete—and naturally we are interested in competing—with the cash-and-carry means of distribution, our one solution is a lower unit cost off of the wagon. The greater number of units served per wagon, the lower proportion of cost per unit. Therefore there is absolutely no limitation in our contract as to the number of units per wagon or per driver.

Mr. LUBIN. One further question. Tell me what a swing man is.

Mr. VARDON. A swing man—not speaking in terms of music—is the relief man who relieves the regular fellow on his day off. He swings the six routes.

The CHAIRMAN. Does a swing man have regular employment or only relief employment?

Mr. VARDON. He has regular employment. You see, a swing—that is musical, too, but in the dairy business it is composed of seven men and six milk routes, and they alternate, taking their days off and he goes in this cycle.

The CHAIRMAN. So that the swing man works 6 days, just like the others?

Mr. VARDON. Just like the others.

The CHAIRMAN. Any other questions?

Mr. VARDON. I would like to add this: It is unfortunately true that due to the recent drop in milk prices and the present chaotic conditions our organization has been forced to strike at various small independent companies in order to maintain a living wage. Now we have taken the position that we are willing to cooperate with the

industry and do everything that we possibly can to clarify the chaos and to stabilize the dairy industry in the State of Michigan. Nevertheless, it has come to the point where today I am firmly convinced that unless something is done, either by regulation through the form of our particular milk-control bill, or the prices advanced, that there are approximately—well, I would dare say even as high as 50 percent of the small independent dairies in the metropolitan area of the city of Detroit that are going to go out of business. They are operating at a loss. Unfortunately I had some statements showing the profit and loss statements of these dairies which I mislaid and did not bring along. I wish I had them to enter as an exhibit. But these small dairies, in fact every dairy, I think, with perhaps the exception of Mr. Johnson's, and the reasons are obvious why he isn't operating at a loss, are operating at a loss at this time under the present conditions, and if something is not done it means that these companies are going to go out of business and consequently we are going to lose our tenure of jobs and our stability of employment.

The CHAIRMAN. What should be done?

Mr. VARDON. The industry should be regulated by the Government to take out the trade evils, and stabilize the industry, making each competitor, each distributor pay the farmer the same price and cease their unfair evil methods of competition.

The CHAIRMAN. What are the factors which Government regulation could eliminate, which would save the small distributor, who you now say is operating at a loss?

Mr. VARDON. First—I think I see the thought in mind—there would be an increase to the consumer, if that is the point you are getting at.

The CHAIRMAN. There would be an increase of price to the consumer?

Mr. VARDON. Very definitely.

The CHAIRMAN. Now does your organization have any opinion as to which is more desirable—the small distributor or the large, well-organized and well-financed distributor?

Mr. VARDON. No; we have nothing in regard to the small, inefficient distributor. One who cannot operate on a fairly good basis and compete in a fair manner; one who is inefficient we have no use for; we don't think he belongs in business; he is a detriment to the dairy industry and to the consumer and everyone involved.

The CHAIRMAN. What your testimony amounts to is an expression of belief that open competition in the milk industry would result in lowering prices to the producer and making employment insecure and wages low to the worker, although it might reduce the price to the consumer, and you prefer to have the price to the consumer maintained at a level which will enable the producer to operate at a profit and stabilize your employment, and you do not believe that a lowering of the price can be brought about which will so increase consumption that you could serve the consumers' interest in low prices, at the same time serving your interest in good wages and stable employment?

Mr. VARDON. And I offer Michigan as an exhibit.

The CHAIRMAN. Mr. Lubin, you wanted to ask another question?

Mr. LUBIN. Mr. Vardon, you talked about cash-and-carry firms in Detroit. Are there any other cash-and-carry firms?

Mr. VARDON. Not exclusively cash-and-carry; no.

Mr. LUBIN. Are there any the major part of whose business is milk and dairy products?

Mr. VARDON. Well, now for example, we have the W. A. Goebel Creamery Co., who has, I think, either three or four cash-and-carry stores. They are of a higher class and character than Johnson's, though. They are a store that has ice cream and various other products, and with very good refrigeration and well set up; a more elaborate store by far.

Mr. LUBIN. Do you know whether Goebel's have any contracts with any trade-union organization?

Mr. VARDON. They have a contract with us.

Mr. LUBIN. They pay the union rate?

Mr. VARDON. Yes; they do in the plant. The girls in the stores are not organized.

Mr. LUBIN. They are not organized?

Mr. VARDON. No.

Mr. LUBIN. Do you know what they pay to their girls?

Mr. VARDON. If I am not mistaken, I think Goebel is paying \$18 a week to his girls.

Mr. LUBIN. Would you know how their prices compare with Johnson's?

Mr. VARDON. With Johnson's? Well, they vary. I think that Johnson's is below them.

Mr. LUBIN. I was interested, Mr. Vardon, in what you just said about the proposed legislation in the State of Michigan and the need for stabilizing the industry. When Mr. Beach appeared yesterday I was impressed by the fact that that marketing board was to consist of a secretary of agriculture, whose main function is to protect the interests of the farmer; two producers, and a representative distributor. Has the question ever been raised by your union as to the advisability of having a representative employee?

Mr. VARDON. The original bill as recommended by the committee composed a seven-man board, a representative of labor, representative of the consumer, two of the distributors, and two of the producers, and a commissioner of agriculture, but we have a very peculiar situation in Lansing, and we thought it advisable to remove the labor representative from the board before it was done for us.

Mr. LUBIN. Is your organization favorable to the proposed set-up of five?

Mr. VARDON. Yes; we think it is fundamentally sound.

Mr. LUBIN. What would be the attitude of the organization if as a substitute to three producers and a distributor you had four representatives of consumers, the public as a whole?

Mr. VARDON. As far as we are concerned we would like to know that they were of high class, intelligent persons, and if they were truly understanding the dairy industry and try to answer soundly the economic problems involved; we would have absolutely no objection.

Mr. LUBIN. You are not implying that you have the assurance that people who are going to be appointed—

Mr. VARDON (interposing). No; I am implying that I have met some people that presumed to represent consumers and made statements to that effect publicly, that certainly are not qualified either as a consumer or in my opinion, anything else, to sit on a commission as important as this particular one is.

Mr. LUBIN. Thank you.

Senator BORAH. I understood you to say that a large portion of the milk industry of Detroit—-independent small people—were doing business at a loss and that something would have to be done in order to save them. My conclusion was that your opinion was to the effect that they would not be saved anyway, that there was nothing that would save them?

Mr. VARDON. No.

Senator BORAH. Form a monopoly and they would pass out?

Mr. VARDON. No; that was not my conclusion at all.

Senator BORAH. That was the conclusion I drew; I would be glad to have you explain how you are going to save them.

Mr. VARDON. Well, first there is absolutely no value on their business today. They are operating at a loss; their statements for the last few months have shown a loss. The valuation of a retail point of business is completely gone. I can remember when a retail point, as I have just previously explained what a point is, was valued anywhere from \$10 to \$30, and \$35, depending upon the—now that includes, I might add, the outstanding, the good will, and the equipment and so on, and so forth. Today I don't think that the valuation of a retail point is above or even level with \$1.50 or \$2. In fact, there is so much retail business for sale in Detroit today that nobody wants to buy it. That is all; there is no value to it. Therefore these fellows are in a position where they can't borrow any money; no one will make any investments in their business. On the other hand, if legislation is passed where they see the possibilities of stabilization, then the valuation of these businesses will be immediately enhanced. They will then be able to borrow enough security, enough capital, to carry them through until the bill is effective and until fair conditions are in existence.

That is about the only way that I can conceive that it would be possible to keep these small independent dealers in business.

Senator BORAH. Do you think some of them could be saved? But I understood you to say a great many could not be.

Mr. VARDON. Some are so far gone I don't think they could be saved. I don't think that would even save them, that is true; but, on the other hand, there are others who are perhaps just a trifle better off that could be saved.

Senator BORAH. You feel, do you not, that ultimately the milk industry will have to pass under the control of a monopoly?

Mr. VARDON. No; I don't. I feel that ultimately the milk business will be a public utility.

Senator BORAH. Which is another name for the same thing?

Mr. VARDON. Well, by the Government; yes.

The CHAIRMAN. Mr. Vardon, we are very much indebted to you for your statement. You may stand aside.

TESTIMONY OF THEODORE G. MONTAGUE, PRESIDENT, THE
BORDEN COMPANY, NEW YORK CITY

The CHAIRMAN. Do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MONTAGUE. I do.

Mr. Chairman and gentlemen, I have gone to quite a length to present a rather pictorial story to the committee, and I would greatly appreciate it if you will permit me to go through the statement. I think that many of the questions that may come to your minds will be answered in the course of my presentation, and I shall be very glad to answer those questions if you permit me to present this pictorial presentation to you.

The CHAIRMAN. Very well, you may proceed.

Mr. MONTAGUE. I am appearing before this committee to express, on behalf of the oldest and second largest milk company in this country, the views of its management on some of the matters before this committee.

At the outset permit me to express the opinion that your committee is engaged in an important——

The CHAIRMAN (interposing). This is the statement you have filed with the committee, is it?

Mr. MONTAGUE. No; this is an amplification of it, Senator. Between April 8, the date of your letter and this time I have been able to amplify considerably with charts and other data the statement originally filed with the committee.

The CHAIRMAN. Of course, the purpose of the committee in asking that statements be prepared and submitted to the committee was in order to enable us to be fully cognizant of the materials to be presented, so that the committee could expeditiously handle the case. I feel that ample opportunity was granted you to do that; I don't want to shut you off, but in the interest of orderly procedure, don't you believe that you ought to go ahead with the statement which you gave to the committee, saying it was to be your statement?

Mr. MONTAGUE. I have amplified it in the interest of presenting, Senator, a more complete picture to you which I think you would find very helpful in getting at the real problem. I will make it as brief as possible. I think, as a matter of fact, Senator, it will save time if I may get to these points that way.

The CHAIRMAN. Of course, the committee and the members of the committee who have been studying the milk industry, the Federal Trade Commission, particularly, have not had an opportunity to examine the new material which you are now presenting.

Mr. MONTAGUE. I am only presenting things in chart form, Senator, that I presented in verbal form to the committee on April 8.

The CHAIRMAN. We have tried to have a regular procedure, the purpose of which was to make it convenient both for the witness and for the members of the committee to get the facts.

Mr. MONTAGUE. I think I can so present them to you.

The CHAIRMAN. Do the representatives of the Trade Commission have any feeling about this?

Mr. DAVIS. Mr. Chairman, if they present a different order and an additional statement, the Federal Trade Commission would like

to have time for its staff to examine it and be prepared to ask intelligent questions, and consequently would have to ask that a later date be set to call the witness back for examination.

The CHAIRMAN. Of course, I understand from Mr. Montague that the additions to this statement are amplifications and not changes in the points to be emphasize'

Mr. MONTAGUE. Precisely.

Mr. DAVIS. Evidently he considers them important or he wouldn't want to present this statement in lieu of the other one.

Mr. MONTAGUE. It is simply supporting data of the principal points I made in the brief filed with the Commission.

The CHAIRMAN. I think with the understanding of the position just stated by Judge Davis and that made by you, that in the event any material which is not in amplification of the original statement is presented, it may be passed over for the present until the Trade Commission experts have the opportunity to examine it.

Mr. MONTAGUE. I think they will find this is all in the original statement filed with the committee.

The CHAIRMAN. You may proceed.

Mr. MONTAGUE. Today the milk industry in this country is in a state of flux. The influences which previously governed the production, distribution, and consumption of milk are undergoing material change. It is impossible at this time to predict the final form into which these changing factors will be resolved. Much will depend upon the future policies of the Government, of organized labor, and of farmers. These will determine in large measure how, in the days to come, the complex task of providing the Nation's milk supply will be performed.

As everyone knows, in many cities milk prices are too high. That is the chief thing with which we are all concerned. Contrary to charges often made, however, this is not, in my judgment, the fault of the major distributors. It is my purpose here to show you where the real trouble lies.

In the course of my remarks, I will discuss the often raised problem of monopoly. It is true that there are monopolistic practices in the milk industry, but these practices are not on the part of the distributors. I will show you where the elements of monopoly lie. It is also my purpose to discuss other subjects concerning which there is much misinformation and misunderstanding, namely: (1) The relationship between farm prices and retail prices for milk; (2) the classified method of buying milk; (3) the facts about the delivery of milk to homes and the sales of milk to stores.

After considering these subjects, I am going to make some suggestions which, if carried out, we may expect will result in three things: First, the assurance to consumers of an adequate supply of wholesome milk at lower retail prices; second, the stabilization of employment in the milk industry at good wages; third, a greater degree of stability in producers' incomes through the establishment of sound prices for fluid milk, rather than some unsound prices used at present.

I shall now proceed with a discussion of the matters I have outlined, and my first subject is the farm and retail prices of milk.

SEASONAL FLUCTUATION IN SUPPLY OF MILK

Mr. MONTAGUE. In the field of milk production, the most vexing problem and the chief cause of the ills afflicting the dairy farmer is the present tremendous surplus of milk. Last year saw milk production in the United States reach the highest point in its history, and 1939 bids fair to exceed 1938. This mounting surplus is the result both of natural causes and current practices which have artificially stimulated milk production.

The effect of normal forces was aggravated by artificial practices. Marketing associations have been successful in some instances in maintaining high prices for fluid milk which are not based upon real values, and governmental price fixing in some instances has operated to achieve the same result.

Governmental price fixing has meant artificial and arbitrary price raising. These high fixed prices are very attractive during a period of low-production costs and have been a major factor in further encouraging producers to increase their output. The record-breaking surplus exists as the inescapable result of these causes.

Critics bent upon distortion frequently assert that during the depression the farm price of milk declined more than the retail price. Actually in most markets the retail per quart price declined more than the farm per quart price.

Wages, which frequently depend more upon the bargaining power of labor than upon economic facts, are slow to decline in a period of declining prices. On the other hand, the cost of the raw milk product is influenced to a large extent by the manufactured dairy products which are bought and sold in the national and in the world market and which normally reflect the laws of supply and demand. The value of milk sold for manufacture into butter, cheese, or similar dairy products, is, therefore, the real index to all milk prices. This fact should be apparent because manufactured milk products provide a larger market for the farmer's milk income in this country than does bottled milk. In the United States approximately 60 percent of all the milk and cream leaving the farm goes into the manufactured products and about 40 percent goes into fluid milk.

Fluid milk normally commands and should command a premium above the basic price for manufactured milk. This premium is paid in order to compensate the farmer for providing a stable supply of high-quality milk for city distribution.

Milk is ultraperishable and very bulky. These stubborn facts make it necessary to depend upon high-cost producing areas near cities and to reduce to a minimum the time intervening between production and consumption. It must be brought from the farm to the household in an operation performed overnight. Another factor, the danger of contamination, necessitates its production under health regulations which add to its cost.

These requirements—and this is very important—are not present in the manufacture of dairy products. In these products a lower grade of milk must be used, and it can be obtained from areas remote from city population. The milk is entirely suitable for human use when manufactured into these products, but because of the distance from the market or because of the quality, it would be unsuited to fluid consumption.

On the other hand it should be borne in mind that if more milk is produced in any given milk shed than can be consumed in fluid form, that milk is worth no more than its manufacturing value, because it must go into manufactured products. This is so because the products manufactured from high-grade milk in the fluid-milk sheds must sell in direct competition with the products produced in more distant regions.

In most localities, the natural calving period, combined with good pasturage and warm weather, causes the milk flow to be very much greater in the spring and summer than in the winter. A market for this widely fluctuating volume must be provided since it is customary and to a great extent necessary for major distributors to purchase all the milk produced by all the dairymen from whom they customarily obtain supplies. Thus, although these major distributors may limit the number of farms from which they may purchase milk, they have little or no control over the volume of milk received from these farms because of the variation in milk production on the individual farms.

In other words, to assure for the months of low production a supply that will barely meet the demand, it is inevitable—and this cannot be avoided—that there will be a large surplus in a period of flush production. Consumption varies according to factors largely unrelated to the factors affecting production, and unlike some food products, particularly luxury foods, the demand for milk is only slightly elastic.

For this reason even a drastic reduction in price will not increase consumption sufficiently to absorb an appreciable amount of surplus. Consequently, the surplus must be manufactured in the more concentrated and less perishable forms which can be stored for considerable periods or shipped to other markets which require more of the products than are produced locally.

The relationship between production and consumption in New York State is indicated in a compilation showing the average number of pounds produced each month, the number of pounds consumed as fluid milk each month over a 10-year period. I should like to present to the committee this chart which we have had prepared which exemplifies this very subject. It is taken from official figures of the Department of Agriculture on the total production of milk in the State of New York.

Mr. HENDERSON. Will the witness identify the chart?

Mr. MONTAGUE. I will offer for the record the chart indicated, chart 1, and the supporting data from which it was taken.

The CHAIRMAN. It may be received. This chart was not included in your original statement?

Mr. MONTAGUE. It is referred to, but not in this form.

(The chart referred to was marked "Exhibit No. 441" and is included in the appendix on p. 3247.)

Mr. MONTAGUE. This chart simply indicates what I have been talking about, the seasonal fluctuation in milk products, going from something under 400,000,000 pounds in January, or at the low point in November, about 300,000,000 pounds, to a high of something over 600,000,000 pounds.

The CHAIRMAN. What do the solid portions of the column represent?

Mr. MONTAGUE. The solid line represents the consumption of fluid milk and the top lines represent the production. This shows very clearly that production of milk has little relation to the use of milk in the demand for bottled milk in cities. You will see how inelastic or how even the demand runs here, and how uneven the production. Obviously, in any shed, this surplus in each of these months must be taken care of by somebody. It exists. Something has to be done with it. The surplus milk always seeks a fluid market if prices for fluid milk consumption are too far above the manufacturing value.

Now, the income to all dairy farmers did not decline as much as farm income from other products. In support of this I will quote from page 78 of part 1 of the report of the Federal Trade Commission in connection with the agricultural inquiry in 1937.

The CHAIRMAN. May I interrupt you, Mr. Montague? I have been trying to follow you.

Mr. MONTAGUE. The quotation of the Federal Trade Commission is a new item, Senator.

The CHAIRMAN. The statement from which you are reading is not the same as the printed pamphlet which has been distributed?

Mr. MONTAGUE. This is an addition since that pamphlet has been printed, this one paragraph on the Federal Trade Commission report. It only signifies, Senator, that the income of dairy farmers in dairy production—and I think that is a fact well known by everyone,—held up better in comparison than any other agricultural product.

The price of butter sold in the open market serves as an excellent index of the value of milk used for manufacturing. The comparison of New York butter prices from 1929 to 1938, with fluid prices in the New York market during the same period, shows that both followed the same downward trend. I have a chart on this, which shows this relationship very clearly, I think, to the committee. Taking 1929 as 100—

The CHAIRMAN (interposing). Please identify the chart.

Mr. MONTAGUE. I shall offer for the record table 2 and chart 2, from which these data were prepared, indicating the source also of data.

(The chart and the table of data supporting it were marked "Exhibit No. 442" and are included in the appendix on p. 3248.)

RELATION OF PRICE TO CONSUMER FOR MILK PRODUCTS TO PRICE PAID PRODUCER

Mr. MONTAGUE. This represents the New York price of butter, taking 1929 as 100, and going down to a low in 1932 of something less than 50 percent of its 1929 price. This represents the fluid-milk buying price in the New York market, following this same relationship, but never going as low as the butter price.

This is the wage cost. You will recall—

The CHAIRMAN (interposing). You say never going as low. In 1937 it dipped below.

Mr. MONTAGUE. I beg your pardon; for a brief period it has. Excuse me.

Following the wage trend, you will see wages come along fairly evenly. As I said, wages did not decline at the beginning of the depression anywhere near as much as raw-material prices did, coming

down here to a low in 1933 and rising now to a point above 1929. The retail price for fluid milk, which is a combination, gentlemen, of high-priced wages, high-wage cost, and lower-material cost, naturally fell in between these two lines, and has followed a very definite relationship between the high cost of labor and the lowering milk price during this period.

Dr. LUBIN. Mr. Montague, will you give us for the record the source of those materials, the prices and wages, and so forth?

Mr. MONTAGUE. Yes, sir. The wages are taken from our own records of our own company operating in New York. The butter prices are the published prices.

Dr. LUBIN. Weighted?

Mr. MONTAGUE. It is the simple daily average. The retail milk price is taken from our own records in New York, the buying prices for fluid milk are the buying prices published by the Dairymen's League in New York.

The tremendous quantity of surplus milk in the New York milkshed in the past 10 years has tended to lower fluid-milk prices as producers attempted to sell this surplus to a market that could not absorb it.

EFFECT OF WAGE COST ON RETAIL MILK PRICE

Mr. MONTAGUE. During this same period, however, wages of retail-route salesman declined only moderately, even in the worst of the depression, and have since increased under the spur of union activity to approximately the 1929 level. In fact, with smaller loads handled on retail delivery vehicles in 1938, the average wage per unit sold off vehicles was generally higher than in 1929. This fact, which materially affects the price of milk, is too little understood by critics of milk prices. It should be emphasized here again that the retail price of milk is determined almost wholly by the cost of the raw-milk product and the cost of labor. Those two items make up such a large proportion of the total cost that other items are insignificant.

Therefore, as I have pointed out, the cost of the raw product and the cost of labor make up so large a part of the expenses of providing milk for the consumer that other costs of operation of the business are of minor significance in determining prices.

Now, as an example that I would like to point out to you, in Chicago our route salesman have achieved and still maintain the highest wage scale in the industry, but in so doing have invited competition which has very, very much lower wage costs. This has caused a loss of approximately 2,500 jobs for the union membership. Many drivers, losing their jobs with major distributors, have gone into business for themselves, handling milk purchased from farmers at less than prevailing prices and selling it at whatever price can be obtained. The return these men get for their labor is usually much less than the wages paid by the distributors whose employees are unionized.

This committee may not realize that our company experiences in Chicago a wage cost which is from 25 to 100 percent higher than that of dealers employing nonunion labor. Competition from such dealers who pay less than union wages and frequently less to the farmer than the prevailing price for fluid milk, has caused our Chicago operation to lose a substantial portion of its former volume of busi-

ness and a reasonable rate of profit has given way to a series of net losses.

Lest persons bent on mischief attempt to misconstrue my remarks, let me emphasize now that our company is not opposed to the unionization of labor and that there are some unions whose officers wisely appreciate the problems and the limitations of the industry.

I believe in high wages, but cannot willingly subscribe to any arrangement which deliberately lowers the efficiency of labor while increasing its costs. Limitations of this type are not only unfair to the consuming public, which ultimately pays the bill, but are unfair to employees. The belated recognition by certain unions of the fact that the imposition of excessive labor cost is a form of labor suicide in a competitive industry such as ours is ample corroboration of this.

Now, an explanation of milk prices in Chicago may well be found in the current wage cost of milk delivered to the doorstep or to stores, and it will not be possible to reestablish stable employment in our Chicago fluid-milk operation until excessive wage costs in delivery are reduced, paving the way for a lower retail price.

Now let me tell you about our wage contract with the Milk Wagon Drivers' Union of Chicago. Accomplished by closed-shop bargaining power, this contract requires us to pay \$48 for a 6-day week, plus a commission, and this is important, of three-quarters of a cent per point or unit for sales over 190 points per day on home-delivery routes. On wholesale routes the routeman receives \$49.50 for a 6-day week, plus three-quarters of a cent per point on sales above 190 points per day and nine-tenths of a cent per point above 762 points daily.

This resulted in the average retail route salesman receiving in February 1939, the latest month for which these figures are available, \$52.82 per week. Owing to the small loads carried in Chicago the average wage per quart was approximately 4 cents, which is 1 to 2 cents higher than in many other large cities.

The salesmen operating Borden's Chicago wholesale routes received an average wage of \$79.95 per week during March. This is at the rate of \$4,157 per year. Five of them received over \$100 per week, which would amount to more than \$5,200 per year. A reasonable wholesale load in most cities is 50 stops a day with an average of three cases per stop. If a Chicago wholesale route salesman were to deliver a load of this size he would receive \$7,534 per year.

An income of this character compares favorably with that of many executive positions and exceeds that of most of the professional classes.

Now, I point this out only to show the big part that labor costs play in the pricing of milk. The purpose of the union in imposing this wage scale is not simply to obtain a high wage for the route salesman in delivering to stores, but to curtail our store business and thus keep more of its members employed.

THE CLASSIFIED PRICE PLAN

Mr. MONTAGUE. Milk for fluid consumption in city markets must command a higher price than the price of lower-quality milk produced in remote regions for manufacturing. On the other hand, any surplus milk produced in high-cost city milksheds, even though it is

of the same quality as that sold in bottles, is worth no more than lower-grade milk manufactured in regions of lower production costs, because the manufactured products sell at the same retail price in open markets.

There is always a substantial number of farmers, producing a high quality of milk, who grow dissatisfied when their market is limited to the sale of milk for manufacturing purposes. These farmers very often seek fluid-milk dealers with no regular source of supply who are willing to pay a price that is higher than the manufacturing value but well below the going price for milk used for fluid consumption. Such dealers often buy only enough milk to satisfy their bottled-milk requirements and thus obtain their supply at a price much less than that of their competitors. Through this buying advantage these dealers are able to offer milk to consumers at a cheaper price. This takes some of the market of competing distributors, and, as a result, a larger portion of the latter's milk must go into manufactured products. This merely shifts the burden to other producers. If it reduces their price too much, they in turn try to pass it on to still others. Thus, in a disorganized milkshed, the surplus may be shifted from one group to another, but it always remains to be sold at the lower manufacturing price. In the meantime, the cut-rate competition in the city market resulting from the availability of this low-priced supply makes it increasingly difficult for other dealers to pay a high price for milk for fluid consumption, and eventually this process breaks the price for all milk down to low levels.

Attempts have been made to solve this problem in different ways in various milk markets. Some producers' organizations have attempted to reduce the amount of seasonal surplus by various price plans that penalize uneven production or reward even production. These methods are usually referred to as base and surplus or quota plans. The farmer is assigned a quota by his association, which is generally determined by his past year's production, and for that portion that the farmer produces within that quota he gets the top price, and for his excess a surplus price, the whole theory being to even out production.

No one thing in the whole milk industry is less understood than this classified method of buying milk from the farmer. It is a plan whereby a dealer's cost of milk is determined by the various uses to which the milk is put. Because it is so little understood critics frequently attempt to show that the classified plan was designed by milk for manufacturing purposes at low prices, and thereby make large profits, while ostensibly paying higher prices for fluid milk. This accusation is not founded in fact. The classified-price plan was designed and is supported by producers for the purpose of assuring them a higher price for fluid milk than its value in manufactured dairy products.

Under the classified-price plan a dealer's price for that part of the milk used for various manufactured dairy products is commensurate with its manufacturing value, and his prices for that part sold as fluid milk or cream are considerably higher. His prices for the manufacturing uses are usually determined by formulas which are based on the market values of butter and cheese, which are the two fundamentals of the dairy industry. On the other hand, prices for fluid milk, and sometimes for cream, are either determined by

bargaining between producers and distributors, or are set by Federal or State orders. The blend price paid to producers is merely the weighted average of these various prices.

A simple theoretical example of this classified plan I have here in chart form, which will perhaps help the committee to understand it. This is a purely theoretical example to show the committee how this classified plan works.

The CHAIRMAN. You are now referring to table 3?

Mr. MONTAGUE. Table 3, which I offer for the record.

(The table entitled "Theoretical Example of Classified Prices" was marked "Exhibit No. 443" and is included in the appendix on p. 3249.)

Mr. MONTAGUE. It is an example of how the classified plan works.

Here is a dealer whose total intake was 1,000,000 pounds. This has often been explained by the Department of Agriculture, so perhaps a number of you men are familiar with it, but in case you are not, it is a very good example of how it works. This dealer, out of the million pounds, sold only 300,000 pounds of milk as fluid milk and bottled milk, for which the negotiated price was \$2.50. He had only 100,000 pounds in cream, at \$2. All the rest of this was an excess supply to that dealer. He only needed 300,000 pounds for fluid milk, only 100,000 pounds for cream.

Six hundred thousand pounds of this million pounds was milk that was not required for that particular dealer.

He put 100,000 pounds into evaporated milk at \$1.30. I should point out here that the evaporated milk price that is paid throughout the United States is based upon a formula price approved by the United States Department of Agriculture and in operation about 5 years. That formula price is very, very much lower than most class 1 prices in cities. That is one of the principal reasons, in that fact alone, why evaporated milk undersells fluid milk in most large cities by a substantial margin.

Butter, \$1 a hundred, and right today butter will not return to the producer much more than 80 or 90 cents a hundred.

Cheese, \$1 a hundred.

The blending of all that, as you can see by the dollars here, produced this net price of \$1.58 a hundred. A dealer who bought only the amount of milk which he needed for fluid consumption, but bought it at the blended price paid by dealers who took all the milk, including the surplus and manufactured, in this instance, would have a benefit in buying of about 2 cents a quart over the man who bought on the classified plan, although the farmers might, in the same instance, get the same amount of dollars, but the surplus in any case would be left in the shed for somebody to take care of. It is only shifted from one group to another; it is not avoided.

It has been contended in previous testimony before this committee that the distributor's real cost of milk sold in fluid form is the blend price and not the high fluid classification rate. This contention, of course, is absurd, because if the average price of all milk is applied against the fluid milk it must also be applied against the milk that is manufactured. Obviously, no distributor can pay \$1.58 for milk to manufacture into butter and cheese that will return only \$1 when sold on the open market.

As a rule, the real problem in the use of the classified-price plan arises from the fact that the major distributors usually carry the surplus burden. They are the ones who have the plants and equipment to manufacture the surplus milk most efficiently, and the price received by producers selling to them is an average of the high fluid price and the manufacturing values.

Many distributors, on the other hand, customarily buy only enough milk to supply their fluid milk and cream requirements. This is usually done by "buying short," insofar as their regular supply is concerned. For instance, such a distributor may contract to take the entire output of a group of farmers so as barely to cover his requirements when milk production is greatest, in June. In order to make up shortages in regular supply during the rest of the year he may buy varying quantities from various manufacturing plants that have no regular city-market outlets. Some distributors also avoid handling surplus by shutting off some of the producers selling to them when they have more milk than they can sell in fluid form, while others will take only part of a farmer's milk instead of his entire production.

With some distributors buying milk for fluid use on the classified basis and others buying milk for fluid use at a flat price equal only to the blend price, it is obvious that the higher the fluid price is above the blend the easier it is for cut-rate distributors to undersell those paying the full classification rates. If that fluid price were \$3 a hundred and the blend still came out at \$1.58, that would give nearly 3 cents a quart advantage to the distributor buying at a flat price.

In theory, the classified price plan is economically sound. It was originated by farmers to obtain a premium for fluid milk which higher production costs justified. In practice, however, the plan has permitted abuses, such as the exaction of artificially high rates for fluid milk, and this has been particularly true under some types of governmental price fixing.

To illustrate this, let me refer again to table 3. The class 1 price, that which applies to fluid milk, is \$2.50 per hundred pounds, or more than 51½ cents per quart. The price for milk used in making butter and cheese is \$1 per hundred pounds, or 21⅞ cents per quart. Thus the class 1 price is more than 3 cents per quart higher than the price of milk for butter and cheese. Although this is a theoretical example, in many milk markets the difference is even greater.

No one will deny that increasing the farmer's income is a desirable aim, but when price raising is carried too far the effects are disastrous for the producer, who loses part or all of his market and is compelled to find an outlet through cut-rate dealers who pay only blend prices.

As a rule, distributors purchasing milk at the blend price not only purchase milk for fluid use at lower prices than do large distributors using the classified price plan, but they also avoid the surplus burden that their fluid operations create.

Many of the distributors who customarily purchase at the blend price flaunt the edicts of governmental price-fixing bodies. Under Federal or State control only the companies who accept the moral responsibility of compliance pay the prices and conform to the orders established. Let me illustrate. When the A. A. A. milk-marketing agreement and order for the New York City area was suspended on

March 14, 1939, but effective as of February 1, 1939, 43 companies were in default in their payments to the producer settlement fund in an amount of \$589,494.34. This money belonged to the farmers. The Borden Co. was not in default.

When the A. A. A. terminated its milk license for the Chicago area in 1934 many companies were in default and 26 companies had been cited for violations. Over \$225,000 was due the settlement fund. Efforts to collect have been unsuccessful. This money, too, belonged to the farmers.

Five years of experience had not found the way to make the willful violator comply.

In 1937, in New York City, about 40 companies were operating after their licenses had been denied or revoked by the State for failure to comply with orders of the milk-price-fixing bureau.

Prices to farmers were set so high that violations of the law resulted in such large profits as to offer the same incentive to "bootleg" as existed in the days of prohibition.

A casual opinion, unfounded in fact, has been expressed before this committee that some dealers profit unduly from the sale of products manufactured from surplus. This assertion is at wide variance with the truth. The Borden Co., for example, maintains condenseries within or near metropolitan milksheds for the sole purpose of absorbing frequent surpluses in fluid milk markets. It is at a constant disadvantage in doing so because its chief competitors in the manufacture of canned milk locate their plants and obtain their supplies largely in regions of lower cost production, remote from city markets.

I want to emphasize this. The Borden Co. would not produce a single can of evaporated or condensed milk in fluid milksheds were it not for the necessity of finding an outlet for the surplus of these markets.

As an example, we pay appreciably more for milk that is made into evaporated milk in our plants in the New York milkshed, which are operated as condensing plants only when there is a surplus, than we do for milk manufactured in our specialized condensing plants in the Middle West. Yet the canned milk from both regions sells in the same market at the same price.

In addition to paying higher prices for milk in the fluid milk shed, condensing operations located there usually are carried on during only that part of the year when production is heaviest. This not only creates a serious labor problem but also increases the operating cost, because overhead costs continue even when condensing is not being done. If you will refer back to the chart I showed to the committee on fluctuation of production in the New York shed it is easy to see why.

Contrasted to this, the condensing plant in the manufacturing region operates throughout the year with a correspondingly lower unit cost.

Most of the major dairy products are manufactured by companies having no fluid milk operations, and their specialized production is the dominant influence in determining the price of all manufactured dairy products.

This fact is clearly shown by a comparison of the production of manufactured dairy products in a group of States which include all

of the major fluid milksheds and in a group where manufactured dairy products offer the chief market for milk.

I offer for the record table 4 and chart 3.

(The chart and table referred to were marked "Exhibit No. 444" and are included in the appendix on p. 3250.)

Mr. MONTAGUE. These black lines represent the milkshed States. This represents butter, cheese, and evaporated milk products which are practically the commodities that this surplus must go into. These States are New York, New Jersey, Massachusetts, Pennsylvania, Ohio, Michigan, Illinois, and California, representing 60 percent of all the city population in the United States. These eight States—Wisconsin, Minnesota, Iowa, Indiana, Missouri, Tennessee, Kansas, and Washington—represent 14.4 percent of the city population, and I ask your comparison between the amount of butter produced in these milkshed States and the amount produced in the nonmilkshed States.

The same with cheese. Only 18 percent of the cheese is produced in the milkshed States, and 65 percent is produced in the nonmilkshed States.

In evaporated milk, 37 percent is produced in the milkshed States, 49.4 percent in the nonmilkshed States.

The CHAIRMAN. That simply amounts to saying that in the populous States most of the milk goes for fluid consumption and in the nonpopulous States producing milk the largest proportion of butter, cheese, and evaporated milk is made from the milk produced in those States.

Mr. MONTAGUE. That is right, Senator, except we must bear in mind that the surplus, the surplus from these fluid milksheds competes, must compete, with what is practically the sole market for these other areas. Now let me emphasize the effect that governmental price fixing and the pressure of organized farm groups has had upon the price paid by consumers for fluid milk. If the prices of other dairy products had been fixed on the same butterfat scale as fluid-milk prices, taking as an example the recently discontinued order in New York, consumers would be paying 70 cents a pound for butter, as against the present price of about 28 or 29; 35 to 40 cents a pound for American cheese, compared with the present price of 17 to 20; and 10 cents a can for evaporated milk, compared with the present price of about 6.

Now, it should be noted further that this high price fixed for fluid milk forces the consumer to pay a high price for bottled milk and applies only to a limited group of producers because the greater part of the dairymen of the country, those whose milk goes entirely into manufacturing, must depend upon the law of supply and demand for the prices they receive for their product.

Now, my next subject is the route and store sales. This committee has been told that dealers insist that all consumers must buy milk through the home-delivery system and it is implied that because of this insistence certain consumers cannot afford to buy milk. Now, in every city in which The Borden Co. operates our milk is readily available in various grades, merchandised through different types of service and sold at prices determined by the grade of milk offered and the cost of the service rendered.

This is not a recent development but a situation which has existed for many years. We are not keeping it a secret. In fact, it is well known to every housewife. Consumers who wish the convenience of home delivery may have that service. Consumers who prefer to purchase milk at stores may do so. To satisfy consumer needs in most markets in which The Borden Co. operates there is a differential between the price of home-delivered milk and store milk.

In a further effort to satisfy consumer needs the company is developing where possible the sale of milk in larger containers and we have in several markets introduced the sale of milk in 2-quart containers at prices substantially less than the price of 1 quart and for additional convenience to households using larger daily quantities. In other markets we have successfully introduced the paper container for milk—as a matter of fact I think we were one of the first to introduce it—another great convenience to customers purchasing milk through stores.

New types of distribution have been developed within the industry in an effort to overcome abnormally high cost of raw milk and labor. New methods of sales are being followed. The Borden Co. is engaged in a continuous effort to reduce its cost in order to sell milk at lower prices. This is a difficult task, because the two chief elements making up the price of milk are governed largely by factors which have been outside of our control. In that part of our business which we do control we have been able to effect considerable economies and greatly improve efficiency.

Now, I will not attempt to enumerate the wide variety of milk products manufactured and sold by us. I should like to point out, however, that The Borden Co. provides for its customers their most vital food in many different forms and at different prices and through different types of distribution. That segment of the public which patronizes The Borden Co. is able to purchase a quart of milk, or its equivalent, in nutritional value, at a wide range of prices.

We sell milk at prices which will meet every pocketbook. For those consumers who feel that their means are not sufficient to allow for fresh milk there is evaporated milk, which contains the same nutritional qualities. Now, the raw milk, used in the production of evaporated milk has, as I have said, been purchased for over 5 years under a formula price approved by the A. A. A.

The United States Department of Agriculture reports that the average price paid for milk used in making evaporated milk in the month of February 1939 was \$1.18 a hundred pounds. It also reports that the milk dealers buying prices for city use is \$2.21 per hundred pounds. This difference of \$1.03 a hundred is 2.2 cents per quart in favor of evaporated milk. The February 5-year average shows 1.4 cents per quart in the buying price for evaporated milk over the price of milk for city use. Now, the other big factor, labor cost, of a can of evaporated milk is less than 1 cent a can, while the labor cost of processing and delivering a quart of fluid milk in New York City at retail is almost 4 cents.

Consequently a can of evaporated milk, the equivalent of a quart of milk, has a present price range of 2 cents in raw-milk cost and 4 cents in labor or a total of 6 cents. There are, of course, additional advantages in favor of evaporated milk, such as transportation, re-

frigeration, and other costs which reflect more favorably upon evaporated milk than fresh milk. Now store sales are usually greater in large communities than in small ones, and this is due to the fact that the differential between store delivered prices is greater in large cities because of the higher labor cost.

Studies made by Cornell University indicate that as early as 1927 home-delivery sales accounted for only 54 percent of all the milk sold in the metropolitan area of New York. In June 1938 this proportion had decreased to 41 percent. Similar trends have been noted in other large cities in which Borden operates, and in which excessive labor costs are reflected in higher prices for delivered milk. Now I offer for the record chart 4, which I will attempt to explain to the committee.

(The chart referred to was marked "Exhibit No. 445" and is included in the appendix on p. 3251.)

Mr. MONTAGUE. This is simply in chart form what the Cornell University pointed out in 1927. Fifty-four percent of New York City's fluid milk consumption was off of retail routes, 45 percent was through stores and other channels. Ten years later, 11 years later, 1938, 41 percent was on retail routes and 58.8 percent through stores or other means. I only present that to show to the committee that this trend is quite acute in large cities, the trend from retail route to store.

Now as an example of what happened in New York I have here two other cities besides New York. This chart only represents The Borden Co.'s sales and not the market, because we have no means of getting the entire market, so this represents just The Borden Co.'s sales.

The CHAIRMAN. You are now referring to chart No. 5?

Mr. MONTAGUE. I am referring to chart No. 5.

(The chart referred to was marked "Exhibit No. 446" and is included in the appendix on p. 3252.)

Mr. MONTAGUE. In Los Angeles, so far as The Borden Co. is concerned, you will see the same trend; from 1936 the retail proportion was 35 percent, 33 percent in 1937, 30 percent in 1938. The wholesale increased an equivalent amount, either wholesale or store.

Here is Detroit, 54 percent in 1936, 53 percent in 1937, 49 percent in 1938. I have already given you the New York figures.

REFLECTION OF LABOR COSTS IN RETAIL MILK PRICES

Mr. MONTAGUE. Now, the cost of labor is a very considerable factor in the establishment of the differential between the store price and the home delivery. Reduced to its simplest terms, the lower store price is made possible by the fact that one man in delivering milk to stores can handle approximately the same volume of milk as three men delivering retail to homes; in some cases that is as much as four men. The result, of course, is a higher per unit distribution cost on retail routes. Thus in New York City, as an example, the retail-route man receives 2.3 cents a quart and a store driver 0.76 cent a quart. That is simply dividing the quarts delivered into the labor costs.

The cost of receiving milk, pasteurizing it, transporting it from the country to city, and so forth, is practically the same for both home

delivery and retail delivery. Yet other labor costs involved in the home-delivery business, such as the care of trucks, checking and loading, accounting, credit, other services, and social-security taxes, bring the total labor costs on home-delivery routes to 4.83 cents per quart. This figure compares with the unit cost of labor of 2.7 cents for wholesale.

Now, I have here chart 6, which I should like to introduce for the record.

(The chart referred to was marked "Exhibit No. 447" and is included in the appendix on p. 3253.)

Mr. MONTAGUE. Portraying this in graphic form. This is only our own company in New York. Here at wholesale, seventy-six one-hundredths of a cent for the delivery to stores; all other labor costs, which includes plant and transportation, accounting, and so forth, 1.88 cents; social-security taxes, one-tenth of a cent; total, 2.74 cents. At retail, 2.30 cents to the retail driver, because again of the lesser quantity applied to approximately the same dollar of wages; 2.35 cents for all the other labor costs. That is the reason this is more than the wholesale is because of the credit and accounting which is necessary in connection with thousands of retail customers that is not necessary with a lesser number of wholesale customers, and because the pay rolls are larger social-security tax is increasingly more.

Mr. LUBIN. This merely reports—

Mr. MONTAGUE. That is only our own company in New York.

Mr. LUBIN. Not the subsidiary?

Mr. MONTAGUE. That is our Borden Farm Products Division in New York, Mr. Lubin. Now in Chicago the difference in labor cost between home and store delivery is even greater. I pointed out the very high wages in Chicago; they amount to 3.2 cents per quart with the small loads handled in Chicago; the total labor cost of getting a quart of milk from the country to the home of the consumer is approximately 6½ cents, of which 4 cents goes to the retail-route man.

I should like to present the labor cost in Chicago in chart form.

(The chart referred to was marked "Exhibit No. 448" and is included in the appendix on p. 3254.)

Mr. MONTAGUE. This again is only our own company. Here the wholesale 1.78, because of that very high commission that I spoke about earlier in my testimony. The labor cost other than delivery in Chicago is less than in New York, principally because of the larger volume handled in country plants and the shorter distance to bring the milk in from country to the city. Social-security tax, 0.13 as against 0.10 in New York, largely due to the higher wage scale.

The retail route, this being because of the very small loads carried in Chicago, 4 cents per quart. All other labor 2.2 cents per quart, and social-security cost correspondingly high. I point this out, gentlemen, just to emphasize the part that labor cost plays in milk prices. Now in Chicago the establishment of a 2-cent differential between home-delivered and store milk was accomplished over the strenuous protest of some union leaders. In 1938 the price charged in Chicago by The Borden Co. for milk delivered to the home was 13 cents. Our price to retail stores was at that time 10½ cents. Most stores resold

it at 12, which provided a differential of 1 cent between the home-delivered price and the store price.

When this company made known its plans to reduce its price to the store from $10\frac{1}{2}$ to $9\frac{1}{2}$ in order to pave the way for a lower price, out of stores, some union leaders threatened to strike and tie up the company's deliveries. It was not until 5 months later that the company was able to reduce store prices.

The union continued to exact this high wage and commission rate, which, with the small loads carried, made the labor cost at least a cent per quart higher than in most other large cities. Now the union's threat to strike was based upon the fear that a lower store price would reduce sales of milk to the home and consequently reduce the number of jobs held by the union. There is no question but that the growth in the volume of store sales has reduced employment in the milk industry. This is regrettable but perhaps unavoidable if the consumer needs are to be satisfied.

We hope, of course, that the union will permit the reduction in this present very high cost of getting milk to the home in Chicago. In this instance it is apparent that strength was used in order to maintain temporary employment at the expense of the consumer and expense of the members of the union. In discussing the differences between store and home delivered prices it should be pointed out that the higher labor cost is the principal factor. In recent years cut-rate milk depots have sprung up throughout the country. Some are able to sell at lower prices because of advantages in labor cost but where the differential is sizable, it almost invariably means that the operator of the depot is also paying the farmer less for his milk than competing distributors.

As has been previously noted, this big advantage enjoyed by some depots is the direct result of the abuses of the classified-buying plan. It may be pointed out here that previous testimony before this committee sought to compare prices charged for delivered milk in Detroit with those charged at milk depots. This is not a sound or honest comparison. The two types of distribution offer differing degrees of service at different prices. They are not comparable. Milk prices are determined by costs. The distribution business operates on an enlarged volume and an extremely small unit profit. The per-quart profit in milk is but a fraction of a cent at the best and this small margin makes it impossible to raise or lower prices without substantial changes in these two elements, raw milk and labor cost. The situation is revealed by all dispassionate and impartial surveys of the milk industry. All of the studies of price and the costs which influence them can lead one to but one conclusion, which might be expressed as a theorem. All milk of uniform quality procured at a uniform farm price and made available to consumers through the same service by labor paid the same wages must be retailed at the same price for the simple reason that profits are but a fraction of a cent per quart.

Now my final subject relates—a subject—

The CHAIRMAN (interposing). Let me interrupt you here. It is now after 12:30, 12:35 to be exact. If you have no objection, the committee will stand in recess until about 2:30, when you may proceed with the discussion of Borden's position in the industry, which

I take it is your next subject. You have completed the preliminary discussion?

Mr. MONTAGUE. Thank you.

The CHAIRMAN. We will resume again at 2:30 in this room.

(Whereupon at 12:35, a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 2:50 p. m. on the expiration of the recess.

The CHAIRMAN. The committee will please come to order. Mr. Montague, are you ready to resume your statements?

Mr. MONTAGUE. Before resuming the presentation of my statement I should like to emphasize again that we believe in high wages and are not opposed to the unionization of labor. We also believe in cooperative effort on the part of producers. My statements on these facts have related solely to abuses which in my judgment have crept into the industry on these scores.

THE BORDEN COMPANY'S POSITION IN THE MILK INDUSTRY

Mr. MONTAGUE. Now, my final subject is Borden's position in the industry. This committee has been told that a vast milk monopoly exists; that it operates on a national basis, controlling prices that are paid farmers for their produce and prices city consumers must pay for their milk. Anyone with knowledge of the milk industry knows the impossibility of monopolizing either the production or the sale of milk on such a scale. The milk industry in this country is not controlled by a monopoly. It never has been and it never can be. The Nation's milk supply is produced by 4,500,000 farmers. These farmers are scattered, living in every State and in nearly every county. They market their milk in many ways.

Some market it through cooperatives; others sell it direct to processors; still others, direct to the consumer; some sell their produce as milk, others as cream, still others as butter. The prices processors must pay for this milk may be determined by national markets, or by a Government formula, or by collective bargaining in each market for fluid milk.

These are the practices most generally followed in the sale of milk by the 4,500,000 farmers to tens of thousands of processors in the 48 States. The Borden Co. is but one of these processors, and was organized 82 years ago by Gail Borden, one of the founders of the Republic of Texas, and the inventor of the milk condensing process. Originally engaged only in the manufacture of condensed milk, we have gradually enlarged our activities to embrace the processing and distribution of fluid milk, as well as other dairy products.

During its long history, Borden's has led the industry in research, developing new products and processes which have not only brought higher quality products to the consumer, but have also widened the use of milk and expanded foreign markets. At no time in its history has The Borden Co. been in a position to monopolize the industry, and it is not in that position now. If all the dairy products sold by The Borden Co. in the United States are expressed in terms of fluid milk, the total is less than 5 percent of all the milk produced in this

country. This figure, it might be noted, includes not only milk purchased direct from farmers, but also its equivalent in such products as butter and cheese purchased in the open market.

Furthermore, Borden's percentage of all milk produced has been and still is very small. It has tended to decrease in the last 5 years. This reduction is due in part to decreased sales and to the discontinuance of certain operations by us, and in part to increased production of milk. Last year as an example Borden's milk purchases were only 4.4 percent of the national production: I have a chart here, which I would like to show to the committee and offer chart No. 8 in evidence.

(The chart referred to was marked "Exhibit No. 449" and is included in the appendix on p. 3255.)

Mr. MONTAGUE. I should say at the outset that these figures are the total milk production of the United States and are compiled from reports of the Department of Agriculture. These figures represent Borden's participation in this total production. These figures are, of course, from Borden's own records: 5.6 percent, 1934; 5.3 percent, 1935; 5 percent in 1938; 4.8 percent, 1937; and 4.4 percent in 1938. The table with those figures is attached for the record.

Now, there are only a few city markets where data are available showing the total sales of milk in which Borden sales can be compared. However, the proportion is known in New York City, where our largest fluid-milk operations are located and where receipts are reported monthly by the United States Department of Agriculture. In this market our percentage of total sales has declined steadily, amounting to less than 25 percent for last year. I offer table 9 and chart 9 for the record, showing our proportion of the New York City business.

(The chart and table referred to was marked "Exhibit No. 450" and is included in the appendix on p. 3256.)

Mr. MONTAGUE. This again, expressed in terms of all of the milk coming into New York, as per reports of the United States Department of Agriculture and Borden's total percentage of that market: 30 percent in 1935, 29 percent in 1936, 27 percent in 1937, and 24.8 percent in 1938. This diminishing share of the Nation's largest milk market, the New York metropolitan market, is difficult to reconcile with the charge of monopolistic activity. And it should be remembered also that whatever control of prices there has been in New York City during most of the last 5 years has been exercised through Federal and State orders.

The committee has been told that some distributors effect a monopoly of the industry by taking over pasteurizing plants originally owned by farm groups. The fact is that few pasteurization plants were ever owned by farmers. The older distributors who originally sold raw milk installed the necessary equipment when pasteurization was recognized by both medical men and distributors as a process essential to public health. Now, pasteurization of milk has a history.

The first pasteurizing plant, I think, was established in New York in 1904. Pasteurization of all milk, except certified milk, has been required in Chicago since 1910 and in New York since 1912.

New distributors, entering the business after pasteurization became compulsory in the larger cities, naturally had to acquire plants, either by building them or through purchase, before they could dis-

tribute milk. In some instances, when pasteurization became compulsory, producer-distributors erected their own markets.

There has been and can be no monopoly of the pasteurizing process. While it is true that equipment for the efficient processing of quality milk in volume requires a considerable investment, rudimentary equipment for processing raw milk is within the means of the smallest vendor.

Actually, in fluid-milk markets in which Borden operates and which were covered in charts presented by previous witnesses, the number of companies operating pasteurizing plants has increased considerably during the last decade, with one exception—San Francisco.

I should like now to present to the committee table No. 8, showing the number of pasteurizing plants in 1929 and 1939 in these various cities which were mentioned in previous testimony.

(The chart referred to was marked "Exhibit No. 451," and is included in the appendix on p. 3257.)

Mr. MONTAGUE. Akron, 22 against 28; Alameda County, Calif., 16, presently 31; Bridgeport, 8 against 39; Columbus, 18 against 27; Detroit, 31 against 56, and so on through, with the exception of San Francisco. These figures were compiled, gentlemen, largely from responses to inquiries made to health departments.

Another factor clearly demonstrating the absurdity of monopoly is the survey of the company's sales and profits trends during the last 10 years. In that period total sales of our company have decreased nearly one-third. This decline is due to several factors, among which may be mentioned lower prices and a marked reduction in volume of sales both because of severe competition and because of the company's withdrawal from certain undertakings.

SALES AND INCOME OF THE BORDEN COMPANY FOR LAST 10 YEARS

Mr. MONTAGUE. I should like now to present for the record chart No. 10 and table No. 9, showing total sales of The Borden Co. over the last 10 years, from 1929, rising to a peak in 1930, dropping very drastically to a low in 1933, coming back only partially in the last year—1938.

(The chart and table referred to were marked "Exhibit No. 452," and are included in the appendix on p. 3258.)

Mr. MONTAGUE. An even stronger refutation of monopoly may be found in the company's net income, which is often termed "profits" but actually includes profits from operations and income from investments. It may be recalled that this committee has been told that the company exacted undue profits by overcharging consumers and underpaying producers. The fact is, and the fact can be readily ascertained from the company's annual published reports, that Borden earnings declined very drastically and that net income last year was less than one-third of that which it was 10 years ago.

I should like now to present for the record, Mr. Chairman, chart No. 11 and table No. 10, showing the net income of our company over the past 10 years, 1929 to 1938, rising to a peak in 1930, dropping drastically in 1934, and recovering only partially from the low level of 1934.

(The chart and table referred to were marked "Exhibit No. 453," and are included in the appendix on p. 3259.)

The CHAIRMAN. Do you have a chart showing the gross income?

Mr. MONTAGUE. Gross sales are on the chart before, Senator.

The CHAIRMAN. Would the gross sales be the same as gross income?

Mr. MONTAGUE. I should think it would be, wouldn't it?

The CHAIRMAN. Not necessarily. You might have income from other sources.

Mr. MONTAGUE. What do you mean by "gross" income?

The CHAIRMAN. Total receipts of the corporation.

Mr. MONTAGUE. That chart included all income, including income we have from investments, and so do our annual reports, Senator. Now, I shall try to briefly summarize the points I have made.

The plain facts are that The Borden Co., handling less than 5 percent of the Nation's milk supply, with its profit and sales decreasing and its competitors increasing, is not a monopoly. Moreover, to my knowledge there is no monopoly of distribution in the milk industry. High prices for milk result from monopolistic practices on the part of some associations and some labor-unions which are without forward-looking leadership.

The plain facts are that the reduction in farm prices for milk in the early years of the depression was due to declining national prices, and that retail prices were reduced as much as or more than farm prices—even more than the slight and temporary reduction in wages, the other big cost factor, warranted.

The plain facts are that the classified method of milk purchasing was established by the producers for the purpose of returning to themselves a higher price for milk sold as fluid milk. It was not designed to and does not now give our company an advantage in purchasing. Through abuses of this classified-buying plan, however, artificially high prices for milk have sometimes been established, thereby increasing production and discouraging consumption.

The plain facts are that the consumers have a free choice as to whether they will purchase their milk from stores or have it delivered to their homes, and as a matter of fact, as I have shown, store sales have materially increased during recent years.

SUGGESTIONS FOR IMPROVEMENT OF CONDITIONS IN THE INDUSTRY

Mr. MONTAGUE. In my opinion, conditions in the milk industry would be substantially improved if steps were taken to do the following:

First, establish and maintain a sound relationship between the price paid the farmer for milk which is used for fluid consumption and the price paid for milk used in manufacturing. It is the manufacturing price which establishes the fundamental value of all milk products. The Borden Co. believes in the proper cooperative activities of producers, but it must be borne in mind that the abuse of this power has sometimes resulted in arbitrarily high prices to a limited group of producers.

Some of these—again, some of these—have produced large surpluses to compete with the products of the many thousands of farmers who have no opportunity to share in fluid-milk markets.

Second, adjust unreasonable—let me emphasize that, unreasonable—wage costs and delivery limitations. The Borden Co. believes thoroughly in the right of labor to bargain collectively and in the

payment of high wages in return for a full measure of services. It should likewise be borne in mind, however, that the abuse of the power of collective bargaining has resulted also in artificially high prices to consumers.

If these two basic abuses are eliminated, the following results may be expected as a matter of course:

1. The retail price of milk will find its natural lower level.
2. Employment will be stabilized throughout the industry and at good wages.
3. The farmer will receive a sound price for his milk for fluid use, and production and consumption will be more nearly in balance.
4. The burden of carrying the surplus will no longer be such an onerous one, and all producers and all distributors will be more nearly on an equal basis.
5. There will then be no possible justification for governmental price fixing.

Even if for some social reason governmental price fixing is to be continued in some form, it is imperative that there be a sound relationship between the price paid to the farmer for his fluid milk and the price used in manufactured products. The present large differential cannot continue to exist.

For reasons founded in its own self-interest The Borden Co. cannot forget that the consumer comes first. The very nature of the business, the comparative ease with which new competitors find a place in it, make low prices as necessary to the established dealers as they are desirable to consumers. Thus a distributor either stands or falls by his success or failure in keeping his price policies in line with competitive conditions.

The principle of price control and the abuse of milk and labor costs fail to recognize these inescapable facts, and as a businessman attempting to sell more goods to more people, I would be concerned for the future of our company and its ability to operate in the public interest if these fundamental facts were overlooked.

The CHAIRMAN. Mr. Montague, I have listened with interest to these conclusions and to your recommendations, and I note that you put your finger on what you call two abuses, and you say that if conditions in the milk industry are to be improved, we must first establish and maintain a sound relationship between the price paid the farmer for the milk which is used for fluid consumption, and the price paid for milk used in manufacture.

Then you say, second, "Reduce excessive wage costs."

In your conclusion, which in your statement as you read it was just a little bit different from what it appears in the printed pamphlet, you say, "If these two basic abuses by organized producers and organized labor are eliminated"—in your statement you eliminated the phrases "organized producers" and "organized labor"—the following results may be expected as a matter of course," and you list A, B, C, D, and E, E being that firmer conclusion that the elimination of these abuses by organized producers and organized labor would eliminate all possible justification for Government price fixing.

The question I desire to ask is, What agency in your opinion should establish and maintain the sound relationship which you think is so desirable, and what agency should reduce excessive wage costs?

Mr. MONTAGUE. Do you mean what governmental agency?

The CHAIRMAN. No, no; what agency? How are you going to do it? You say these are the two abuses that ought to be eliminated, and you tell us the benefits that will flow from the elimination. How do you propose that they should be eliminated?

Mr. MONTAGUE. Well, Senator, I think that both of those might take care of themselves so far as their elimination is concerned.

The CHAIRMAN. How? This is the very heart of the problem, isn't it?

Mr. MONTAGUE. Precisely. If there wasn't, or if present governmental agencies—you wouldn't need any new governmental agencies to correct them. Present governmental agencies could correct some of these abuses.

The CHAIRMAN. Which agencies?

Mr. MONTAGUE. Well, so far as the producer situation is concerned, that would naturally, from the forces of competition, take care of itself.

The CHAIRMAN. That is not a governmental agency, is it?

Mr. MONTAGUE. The labor situation requires, I think, in one or two places that are extremely bad, the education of those labor leaders. As I tried to point out in my brief, they are committing a form of economic suicide by continuing the practices that have been continued.

The CHAIRMAN. If you had the opportunity right now to lay down the rule which would eliminate these abuses, what would you do to eliminate them? You have come kindly before this committee to help us to make up our minds as to what, if anything, may be done to improve the milk industry as well as other industries. What is your recommendation there?

Mr. MONTAGUE. Senator, I think that what you have in mind is that there might be some governmental agency that would take care of this.

The CHAIRMAN. No; I don't have a thing in the world in mind. I want to find out what you have in mind.

You told us what ought to be done.

Mr. MONTAGUE. I think the first thing would be to bring public attention to these abuses.

The CHAIRMAN. Of course, we are doing that.

Mr. MONTAGUE. Public attention to these abuses, I think, will go quite a long ways in helping correct them. It has in many other ways.

Now, to get into the thought of whether a Government agency can correct it, 5 years of experience, Senator, with Government control, has not produced the desired result in the places that Government control has been applied. I think I pointed out to the committee that in the New York market, the last place where Government control, to my knowledge, was tried, there was over \$500,000 withheld from the producers' settlement fund when the order was canceled. There has been no way that I know of for the Government to enforce these price decrees, and that is why I can't say that the way to cure these things is by a governmental agency.

The CHAIRMAN. You want to eliminate Government activity.

Mr. MONTAGUE. I want to eliminate them, Senator, because 5 years has shown the impossibility of enforcing them.

The CHAIRMAN. That is the capstone of your argument.

Now, I am merely trying to develop what system you believe would be successful in eliminating these abuses.

Mr. MONTAGUE. I think public opinion can do it.

The CHAIRMAN. In other words, you are offering no suggestion as to particular action which should be recommended.

Mr. MONTAGUE. Not other than those two things, Senator.

The CHAIRMAN. Leave it alone?

Mr. MONTAGUE. I think I have shown the committee where Government control so far has failed in 5 years to correct those abuses.

The CHAIRMAN. You heard the testimony that was given here yesterday.

Mr. MONTAGUE. That is right.

The CHAIRMAN. By Mr. Beach, speaking on behalf of the Michigan Producers' Association. The sum total of which was to the effect that the organization of producers is beneficial to the producer in that it tends to get him a better price for his product. Do you think that is a mistake?

Mr. MONTAGUE. Well, now, the matter of a better price, Senator, that is exactly what I have tried to bring out. In all of the cases, or in most of the cases where there has been governmental price fixing, the price has been fixed so high——

The CHAIRMAN (interposing). Let's forget Government price fixing now.

Mr. MONTAGUE. He advocated a Government control law.

The CHAIRMAN. He hasn't got it yet. But he did testify that organization of producers has resulted in better prices for producers.

Mr. MONTAGUE. I think that is right.

The CHAIRMAN. So that actually, so far as that particular result is concerned, the activity of organized producers has been beneficial to the producers themselves.

Mr. MONTAGUE. From the producers' standpoint it is, yes. I would say that is true.

The CHAIRMAN. Before the organization of producers extended into the field, the farmers' position was considerably worse than it is now. Would you say that was correct or not?

Mr. MONTAGUE. I would say, Senator, that is true largely in fluid-milk markets. When it comes to the dairy farmer in total, I haven't any figures in mind but I would wonder whether that would be true.

The CHAIRMAN. Well, then, let's step to organized labor, which also is guilty of producing abuses, according to your testimony. You heard the testimony this morning of Mr. Vardon that the wages of labor and the tenure of employment were very much worse before organization came into the field than they are now.

Mr. MONTAGUE. I think his statement was very constructive. I would take no issue with his statement at all, and as I have tried to point out, I am in favor of high wages. It is only the abuses, Senator, that I think have crept into this picture.

The CHAIRMAN. In other words, then, before organized producers crept into the picture, the condition of the producer was worse than it is now, and before organized labor stepped into the picture the condition of labor was worse than it is now, and yet you make the concluding statement of your presentation here, in this sentence: "If

these two basic abuses by organized producers and organized labor are eliminated," certain beneficial results will follow. Does it hang together?

Mr. MONTAGUE. It is the abuses, not the elimination of organized farmers or the elimination of organized labor. Just the elimination of those abuses.

The CHAIRMAN. Do you think the organized producer, for example, is responsible for what you deem to be the unsound relationship between the price paid the farmer for fluid milk and for manufactured milk?

Mr. MONTAGUE. Yes; in some markets, because of the high class 1 price exacted for that milk. I think I pointed out to the committee that if the same price—the same price—had been exacted for the butter farmer, for the cheese farmer, the consumers of this country would be paying 70 cents a pound for butter instead of 28 or 29.

The CHAIRMAN. But there is no way of obviating that except by public education.

Mr. MONTAGUE. I think that is the most effective way, Senator, because we have had 5 years of control where it hasn't been.

The CHAIRMAN. Then how are you going to determine what are excessive wages costs—by public education also?

Mr. MONTAGUE. I think so. As I pointed out, I am in entire agreement with the gentleman who spoke on labor costs this morning. It is only the abuses.

The CHAIRMAN. You testified this morning that the cost of labor and the cost of milk were the primary factors in determining the final cost to the consumer.

Mr. MONTAGUE. Precisely.

The CHAIRMAN. What other items are there that enter into that cost?

Mr. MONTAGUE. Freight, automobile expense, depreciation, taxes, accounting, vehicle maintenance, packing, bottle costs.

The CHAIRMAN. And do all these items operate uniformly in your business, Mr. Montague?

Mr. MONTAGUE. No, sir; they vary in different markets.

The CHAIRMAN. Do they operate uniformly in the same market?

Mr. MONTAGUE. I would think pretty much the same. Of course there might be some small difference, but nothing very substantial. There is not enough, Senator, in those items; the sum total of those items is not sufficient to change price levels without some consideration in either milk or labor or both.

The CHAIRMAN. I am told that The Borden Co. has two subsidiaries in New York, one of which is called the Borden Farm Products Division, and the other called Reid's Union Dairy. Is that correct?

Mr. MONTAGUE. That is right.

The CHAIRMAN. Do they both follow the same labor policy?

Mr. MONTAGUE. Both of them are unionized companies; yes.

The CHAIRMAN. Do they both pay the same price to producers?

Mr. MONTAGUE. I am not familiar, Senator, with the detail of our New York operations. I have Mr. Eastlack here, from our New York operation, who will be very glad to answer any questions you may have on it.

The CHAIRMAN. Mr. Eastlack, do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. EASTLACK. I do.

The CHAIRMAN. Proceed.

TESTIMONY OF JOSEPH EASTLACK, VICE PRESIDENT, BORDEN FARM PRODUCTS DIVISION, THE BORDEN COMPANY, NEW YORK CITY

Mr. EASTLACK. The question is one that has to be answered in the light of varying conditions. At times the Reid's Union Dairy, which was one subsidiary to which you referred, has paid the same price for milk as the Borden Farm Products Division, and at times it has not.

The CHAIRMAN. What is the difference?

Mr. EASTLACK. The difference within the period of recent years has depended primarily on whether or not there has been in effect in the New York market regulations fixing the price of milk which have been effective, or during periods when there have been no such regulations.

The CHAIRMAN. Well, the presence or absence of regulations would affect both of the companies the same, would it not?

Mr. EASTLACK. That is correct, Senator, but the Reid's Union Dairy business is at the present time, and for some time in the past has been, exclusively a wholesale business. By wholesale I mean selling to restaurants and stores, hotels, and other types of business that we refer to as wholesale. The competitive situation in the New York market has been such that in the absence of regulations it has been impossible to pay the same price for fluid milk distributed in those channels as is paid for milk distributed to the retail trade.

The CHAIRMAN. Now, with respect to the labor policy, is there any difference?

Mr. EASTLACK. Not to my knowledge, sir.

The CHAIRMAN. And the price charged the consumer—what about that?

Mr. EASTLACK. Well, in the case of the Reid's Union Dairy Co., the price charged by that company is not to the consumer. Its sales are not to the ultimate consumer but to the storekeeper or to the proprietor of the restaurant, hotel, or other wholesale type of stop.

The CHAIRMAN. Do you mean that the Borden Farm Products division does not engage in any retail sales at all?

Mr. EASTLACK. Yes; the Borden Farm Products division does engage in retail sales. It does also engage in wholesale business.

The CHAIRMAN. With respect to the wholesale prices, are there any differences between wholesale prices being charged by the two companies?

Mr. EASTLACK. There are; yes, sir.

The CHAIRMAN. What are the factors that go into determining those differences?

Mr. EASTLACK. Primarily the extent to which the two companies meet the competitive practices of the market.

The CHAIRMAN. Do these companies compete one against another?

Mr. EASTLACK. They do, and in the course of the last several years a great deal of the milk formerly sold by the Borden Farm Products Division to stores is now sold by the Reid Co., or one of the host of Reid's competitors.

The CHAIRMAN. Is that an efficient method of distributing, to have subsidiaries of The Borden Co. competing one against the other?

Mr. EASTLACK. Well, it is rather difficult, Senator, to measure efficiency in a situation as complex and complicated as the New York City market. It is about the only method of survival that we have been able to determine upon in the course of events of the last 6 years, and to a certain extent it has enabled us to survive. I think Mr. Montague pointed out that Borden operations have dropped from 30 percent of the market in New York to about 24 percent in the course of the last 7 or 8 years.

The CHAIRMAN. It would be unfair of me to ask you to state which of the two companies were more efficient in distributing its milk, but I will ask you which of the two companies has the lower wholesale price.

Mr. EASTLACK. Well, for the most part, the Reid Co., sir.

The CHAIRMAN. So that there are some factors that enter into the cost in addition to those which were described by Mr. Montague; that is, the cost to the consumer?

Mr. EASTLACK. Well, the unit labor cost is somewhat less on Reid because they are servicing wholesale stops with a package of milk that is substantially priced competitively and therefore serving very large stops, and have lesser wage cost per unit of milk distributed.

The CHAIRMAN. Is there any difference in the grade of the milk distributed by the two companies?

Mr. EASTLACK. Not substantially. All milk sold in the city of New York must meet regulations established and rather rigidly enforced by the city health department.

The CHAIRMAN. In other words, you sell none but approved milk?

Mr. EASTLACK. That is correct.

The CHAIRMAN. So that the two companies which are competing one with another for Borden deal in the same milk substantially?

Mr. EASTLACK. Substantially the same milk; yes, sir.

The CHAIRMAN. But to sell at different prices?

Mr. EASTLACK. That is right.

The CHAIRMAN. Though the price to the producer and the price paid to labor shows no great variation?

Mr. EASTLACK. Well, the price to the producer, as I explained, Senator, at times is not identical for the two operations. As to the price of labor measured in terms of units distributed, it is not identical.

The CHAIRMAN. The price to the consumer however, doesn't change?

Mr. EASTLACK. Well, it has changed with lightning rapidity in the last 3 or 4 weeks, Senator.

The CHAIRMAN. Who determines the policy of these two companies in competing with one another?

Mr. EASTLACK. Well, I don't know that they particularly compete with one another, Senator; they are both engaged in the same market.

The CHAIRMAN. I understood you to say they did, a moment ago.

Mr. EASTLACK. In selling milk to the public.

The CHAIRMAN. What is your position?

Mr. EASTLACK. I am vice president in charge of milk supply.

The CHAIRMAN. Of which company?

Mr. EASTLACK. Borden Farm Products.

The CHAIRMAN. Do you have any jurisdiction over the Reid Union Dairy?

Mr. EASTLACK. Oh, sort of a general jurisdiction. I am not an officer of that division.

The CHAIRMAN. But that company can't do anything to which you would object?

Mr. EASTLACK. Well, all milk companies do a lot of things in New York, Senator, to which I object, but it doesn't make any difference.

The CHAIRMAN. But I am talking about the companies over which you have jurisdiction.

Mr. EASTLACK. Well, the management of the two companies is not in a major sense different.

The CHAIRMAN. So that the Reid Union Dairy couldn't sell milk at wholesale for a less price than the company of which you are an officer, without your consent?

Mr. EASTLACK. Well, that isn't quite an accurate statement.

The CHAIRMAN. I am putting it as a question. I don't want to put the words in your mouth.

Mr. EASTLACK. I am not the only officer of either one of the two operations, so that I didn't want to imply that I personally set those prices or that my say-so was the only one that was involved.

The CHAIRMAN. And, of course, I wouldn't want to imply that.

Mr. EASTLACK. Our schedules of both the Reid Union Co. and farm products division are established by the same group of people.

The CHAIRMAN. In other words, it is a fact that The Borden Co. is the controlling influence over both of these other companies?

Mr. EASTLACK. I didn't quite understand that, sir.

The CHAIRMAN. The Borden Co., the officers of The Borden Co., control the policies of all the subsidiaries?

Mr. EASTLACK. That is not correct.

The CHAIRMAN. It is not?

Mr. EASTLACK. The officers of the farm products division are substantially responsible for the operations of the fluid-milk business in the city of New York and the officers of the farm products division are not officers of The Borden Co. The designation vice president or president are merely operating designations.

The CHAIRMAN. I see, and you receive no instructions from Mr. Montague at any time?

Mr. EASTLACK. Naturally, every individual in a large corporation collaborates with the top officers of that company, but the Borden Co. officers do not dictate policies to its separate divisions.

The CHAIRMAN. And you are a wholly independent, self-governing unit, are you?

Mr. EASTLACK. No, sir; I didn't say that.

The CHAIRMAN. Well, please tell us what you are. I am merely trying to get the situation, Mr. Eastlack. I don't want to put words in your mouth.

Mr. EASTLACK. It would not be a correct statement to say that Mr. Montague or the other officers of The Borden Co. dictate in detail the policies of the operating division.

The CHAIRMAN. Of course, they couldn't dictate it in detail. You don't dictate in detail to your stenographer what she does when she comes to work for you.

Mr. EASTLACK. That is right.

The CHAIRMAN. Just what is the connection between the two? I am trying to develop—

Mr. EASTLACK. As I understand the policy of The Borden Co., the various operating divisions, whether they be in New York or Detroit, or Chicago, or in other places, operate with a great deal of latitude to meet the problems of those markets. Obviously, we all collaborate with the officers of The Borden Co. with respect to major policies.

The CHAIRMAN. Well, what is the reason that as a major policy these two subsidiaries are permitted to sell milk at whole sale at different prices?

Mr. EASTLACK. Two reasons, Senator. One is that the total over-all cost of operating the Reid Union Dairy are somewhat less than in the case of Farm Products. The other reason is to meet competition.

The CHAIRMAN. Now, then, in what items are the total over-all costs of Reid's Union Dairy less than those of the company of which you are the president—or vice president?

Mr. EASTLACK. One reason is the one I just enumerated, that the Reid Union business being concentrated entirely in the servicing of large wholesale stops has a slightly lower cost, distribution cost per unit, handled.

The CHAIRMAN. Any other reasons?

Mr. EASTLACK. In the Borden Farm Products Division a great proportion of the milk sold to stores is distributed off of retail routes and obviously for the reasons pointed out in Mr. Montague's brief, the cost of distribution on retail routes, whether it be 2 or 3 quarts of milk to a store or 2 or 3 quarts of milk to a consumer are higher per unit than in the case of the large truck which is handling 150 cases of milk and perhaps dropping that off at 35, 40, or 50 stores.

The CHAIRMAN. Well, why wouldn't it be better policy, then, for the Farm Products Co. to turn all the wholesale business over to the other, which operates at a lower cost?

Mr. EASTLACK. I think it would be, but for the limitation that it can't be so, Senator. The Borden Co. in its operation of its Borden Farm Products Division, in the operation of its retail routes, endeavors to make its service available throughout the metropolitan area, and endeavors to make its milk available to consumers in all of that area, whether by retail or through stores, and a great proportion of the wholesale milk sold under the name of Borden's is sold to retail stores that take only 2 or 3 quarts a day, merely as a matter of convenience to local residents around those isolated stores.

The CHAIRMAN. Both companies handle about the same character of milk?

Mr. EASTLACK. Not substantially different.

The CHAIRMAN. Do they handle different brands?

Mr. EASTLACK. They handle different brands—I don't quite understand what you mean.

The CHAIRMAN. Do you sell milk under different brands?

Mr. EASTLACK. We sell milk under different designations as established by the health department, gradé A milk and grade B milk. Is that what you mean?

The CHAIRMAN. I am not familiar with your New York market at all.

Mr. EASTLACK. I don't quite get your question.

The CHAIRMAN. Well, is all fluid milk the same, grade A?

Mr. EASTLACK. Grade A and grade B are totally distinct products.

The CHAIRMAN. I understand. I am now referring to grade A milk. Is there any difference in the grade A milk sold by these companies or by either of the companies?

Mr. EASTLACK. Not between these companies; no, sir.

The CHAIRMAN. Then grade A milk designates one particular kind of milk and there are no different brands within that grade?

Mr. EASTLACK. Well, both Reid and Farm Products distribute grade A milk, but in the case of Reid there is very little grade A milk involved. Grade A milk is not a substantial factor in store distribution.

The CHAIRMAN. Evidently I haven't made my question clear, but I think you have answered it to my satisfaction. There are no different brands of grade A milk? It is all grade A, no matter by whom it is sold?

Mr. EASTLACK. If it is sold by The Borden Co. that is correct.

The CHAIRMAN. That is not true, for example, with respect to evaporated milk, is it?

Mr. EASTLACK. I don't know anything about evaporated milk, Senator. New York City——

The CHAIRMAN (interposing). How about you, Mr. Montague; do you?

Mr. MONTAGUE. I didn't get your question, Senator.

The CHAIRMAN. Are there any different brands of evaporated milk?

Mr. MONTAGUE. Oh, there are many different brands.

The CHAIRMAN. And what is the distinction among them? What distinguishes one from another? I am speaking about the evaporated milk sold by Borden.

Mr. MONTAGUE. Well, in one brand—you mean in the quality, or do you mean in the——

The CHAIRMAN. In the quality.

Mr. MONTAGUE. Or in the merchandising policies?

The CHAIRMAN. In the quality, merchandising policies, and in the prices.

Mr. MONTAGUE. There is no substantial difference, Senator, in the quality of evaporated milk.

The CHAIRMAN. But there are different brands?

Mr. MONTAGUE. There are different brands merchandised differently. For instance, some of our brands, the labels are redeemable. Some of the brands, the labels are not redeemable. Does that answer your question?

The CHAIRMAN. Is that the only distinction?

Mr. MONTAGUE. Substantially.

The CHAIRMAN. You have different prices, however?

Mr. MONTAGUE. Yes, yes; there is a different price, Senator, covering the difference between the cost of the premium label and so-called standard-brand price, and so-called off-brand price. I might—you may not—be familiar with the evaporated-milk industry. Substantially the so-called advertised brands; in that are all the leading brands in this country which have for years sold at somewhat higher price to the wholesale grocer than union brands. Necessarily that has to be true because of the cost of advertising and sales promotion work involved in the building up of the consumer demand for that product.

The CHAIRMAN. So that the only element that goes into the difference in the price to the consumer of evaporated milk is the merchandising policy which is followed in disposing of it?

Mr. MONTAGUE. That is substantially the difference in cost, in my judgment, in all companies in the evaporated milk industry.

The CHAIRMAN. In other words, you are dealing with a substantially uniform product and for purposes of merchandising it is sold in different forms and different prices are charged according to the form in which it is presented to the public?

Mr. MONTAGUE. That is right, as far as our company is concerned; most all of our milk is, a very, very large percentage of it, sold at the so-called standard-brand price.

The CHAIRMAN. Now, Mr. Eastlack said a moment ago that there was another reason for the use of these two companies and for the different price which was charged by the company. The second reason you said was to meet certain competitive conditions. Will you elaborate on that?

Mr. EASTLACK. I would be glad to, Senator. In the New York City market during many periods in the last 7 or 8 years there has been no adherence to established milk costs. Those companies of which ours is one have continued to buy their milk on a classified-price plan and have paid the high class 1 price which has been previously referred to; they found themselves in competition with a host of other companies. In fact, practically all other companies except three or four in the market bought milk at the blend price which has been referred to frequently in the last 2 days. And the difference in the cost of that milk at high class 1 prices and blend prices has frequently been as much as 1 to 2 cents per quart. These other companies engaged exclusively in the sale of milk to stores have reflected that lower cost of milk in their price policy to stores. The Borden Co., in an effort to maintain its position in the market, in an effort to make its milk available to the public, in as many price brackets as competition called for, have met that competition in the establishment of these lower prices on Reid milk.

The CHAIRMAN. Have you ever heard of what is called a "fighting company" in the milk industry?

Mr. EASTLACK. I have, and I believe that in most instances such companies are creations that are brought into the picture to do just that, and that is not true of the Reid Co. It has a long and honorable history, long before this price distinction came into the New York market. And incidentally, Senator, the price distinction has its origin in a law passed by the legislature in the State of New York which you perhaps have at one time or another heard of, in which there

was established different price schedules for so-called advertised milk and unadvertised milk, and the Reid Co. was in the latter classification.

The CHAIRMAN. Unadvertised milk?

Mr. EASTLACK. That is right.

The CHAIRMAN. And the New York State Legislature provided a different schedule of prices for the two?

Mr. EASTLACK. That is right.

The CHAIRMAN. For what reason?

Mr. EASTLACK. Well, I don't know the reason why the legislature did it. Those that advocated it probably did it for selfish reasons.

The CHAIRMAN. How would it operate to their benefit?

Mr. EASTLACK. Well, I have often wondered that myself.

The CHAIRMAN. Well, they must have advanced some argument. I never heard of it before, I will say, Mr. Eastlack, and I am merely trying to develop the facts.

Mr. EASTLACK. When the original law was passed in New York, following a long investigation of the industry during the preceding summer, the law being passed in March of 1933, the law contained a provision which after the then milk-control board, which was established by that original law, should have fixed prices, that all non-advertising dealers in a city of more than 1,000,000 inhabitants might sell their milk at 1 cent below those fixed by the milk-control board.

The CHAIRMAN. Was it promoted by those distributors who were not advertising?

Mr. EASTLACK. I think that is a fair inference, Senator. I personally don't know who, by name, promoted it, but a sufficient number of the legislature was convinced by some method or other that that was a desirable practice and it was incorporated in the law.

The CHAIRMAN. Now, you said you had heard of fighting companies. How are they employed?

Mr. EASTLACK. I have heard of them Senator, but I have no experience with them.

The CHAIRMAN. You never have directed one?

Mr. EASTLACK. No I don't know anything about the operation of them.

The CHAIRMAN. Well, have you ever felt the influence of one?

Mr. EASTLACK. Well, I have felt the influence of competition, Senator. I don't know whether it was fighting competition or otherwise.

The CHAIRMAN. Well, I am merely trying to find out whether in your experience there has been such a condition that one competitor, let me say, would use a subsidiary to sell milk at a much lower price than the parent company would normally sell it, for the purpose of driving some independent dealer out of business in a particular area. Has that ever existed?

Mr. EASTLACK. Well, I don't know, Senator, whether it ever has existed or not.

The CHAIRMAN. I mean within your experience.

Mr. EASTLACK. As a matter of fact at no time in my knowledge has there been in New York City any large company with a price of milk lower than that established by the small companies which you referred to as the independents.

The CHAIRMAN. Now, Mr. Montague, I have before me page 19 of your printed pamphlet in which you say:

Let me emphasize the effect that governmental price fixing and the pressure of organized farm groups has on the price paid by consumers for fluid milk.

Do you wish the committee to understand that in your experience the principal adverse effect felt by the consumer has arisen from the organized effort of producers and Government price fixing, and that no adverse effect has arisen from organization among distributors?

Mr. MONTAGUE. No, no. I only mean, Senator, that the effect of this price fixing and the effect of this abuse of cooperative marketing associations has had a tendency to increase the cost of milk to consumers.

The CHAIRMAN. Has there been any tendency to increase the cost to consumers by reason of the organizational activities of distributors?

Mr. MONTAGUE. No; there is no such thing; there is no organization of distributors.

The CHAIRMAN. Then——

Mr. MONTAGUE (interposing). That I know of.

The CHAIRMAN. None in any market in which you have participated?

Mr. MONTAGUE. Well, that is a big order, Senator. We operate, I think, in something over 50, and I wouldn't want to—obviously I can't be in detailed acquaintance with 50 places.

The CHAIRMAN. Well, of course, you would know.

Mr. MONTAGUE. As a general rule, we are not.

The CHAIRMAN. Well, what determines the prices paid by the consumer?

Mr. MONTAGUE. The price of milk to the consumer, Senator, is very largely made up—in fact, all other elements of the cost sink into insignificance when compared with the cost of the milk and the cost of the labor and service performed. Those two elements make up such a large part of the total cost of servicing milk that all other elements are insignificant in determining prices.

The CHAIRMAN. Well, you heard the testimony which was brought forth here yesterday to the effect that in the city of Detroit the price to the consumer was steadily rising at the time when apparently there was a united action, or a common understanding between the producers' association and the distributors and that it broke about the time there was some Government investigation, and in fact, a local investigation by the county attorney, and the independent operations of Mr. Johnson came into the field. It was denied, of course, that one was the cause of the other, but the break in the price to the consumer occurred at that particular time. Do you recall that testimony?

Mr. MONTAGUE. Well, I recall Judge Davis reading something from, I think, Mr. Arnold's report. I have not read that.

The CHAIRMAN. Approved by everybody on the stand?

Mr. MONTAGUE. I have not read that report, Senator.

The CHAIRMAN. But you heard the testimony?

Mr. MONTAGUE. Yes.

The CHAIRMAN. And the testimony was that the price of milk went up and then suddenly broke. What I am trying to get at is whether,

in your opinion, organizational activity of the distributors had anything to do with raising that price.

Mr. MONTAGUE. Not that I know of.

The CHAIRMAN. And you wish the committee to understand that the only organizations which detrimentally affect the consumer are the organizations of producers and the organization of workers, whereas the organizations of the distributors are uniformly beneficial?

Mr. MONTAGUE. Now I don't want to create that impression at all, Senator. What I want—the point I tried to get across in my testimony is that margins are so small, the margin, the operating margin is so small that when you raise the price anything like 25 or 30 cents a hundred, and I think all members of the Government who have had activity in connection with the milk business, the A. A. A. or other elements, will substantiate this, that when you raise the milk price 30 or 40 cents a hundred, you have to raise the resale price. There just isn't margin in the business. Everybody would go out of business if that wasn't done.

The CHAIRMAN. Well, it was testified this morning by Mr. Vardon¹ that with respect to 50 percent of the dairies operating in Detroit, if certain increases which you felt were desirable from the point of view of the producer and from the point of view of the worker were granted, it would necessarily result in an increased cost to the consumer.

Mr. MONTAGUE. I heard that. The point is that price to farmers—I haven't in mind, Senator, what the trend of prices was to which Mr. Beach testified yesterday; I think that the price went up; I have forgotten exact figures, something from \$1.45 I guess it was to \$2.68 or something of that kind. Now, it is just—the margins in the milk business are so small that any substantial increase in the cost of milk from the farmer has inevitably got to be followed by an increase in price to the consumer, or nobody will stay in business.

The CHAIRMAN. What is your opinion about the possibility of stimulating the amount of consumption?

Mr. MONTAGUE. Well, Senator, as I indicated, I am a believer in selling more and more goods to more and more people; all studies, however, of the milk business seem to indicate that as far as fluid milk is concerned, the demand is only slightly elastic. By that I do not mean that the putting of a very high price can't discourage the use of it. On the other hand, a very low price doesn't seem to create demand in fluid milk that it does in many other products.

The CHAIRMAN. May I now direct your attention to page 6 of your original statement and to chart No. 2 (referring to "Exhibit No. 442")?

Mr. MONTAGUE. That is it.

The CHAIRMAN. On page 6 of your original statement filed with the committee, at the bottom of the page.

Mr. MONTAGUE. Yes.

The CHAIRMAN. I find this statement:

Critics bent upon distortion frequently assert that during the depression the farm price of milk declined much below the normal requirement price. Actually in most markets the retail price per quart declined more than the farm price per quart.

¹ P. 2955 et seq., supra.

Does that harmonize with the facts set forth in the chart?

Mr. MONTAGUE. Yes. I think you are thinking in terms of percentage here, Senator. Here is the situation. When you express it in percentage, that perhaps has confused you. If the price of milk goes up, we will say, just for example, 2 cents, and the price to producer goes up 2 cents, the price to the producer may have advanced 40 percent and the retail price only 20 percent. Do you see that? Do I make myself clear there? Conversely, on the other side, as prices go down the retail price may drop 20 percent, 2 cents a quart, and the farm price drop 2 cents a quart, but the percentage expressed in relationship to the farm price is more than the 20 percent on the retail. It is because you are dealing with higher numbers and lower numbers, in each case applying the percentage.

The CHAIRMAN. Then do you wish the committee to understand that actually the price to the farmer, the buying price of fluid milk in cents—

Mr. MONTAGUE (interposing). In cents per quart.

The CHAIRMAN. In cents per quart was not, did not fall off more than the retail price?

Mr. MONTAGUE. Exactly.

The CHAIRMAN. It did not?

Mr. MONTAGUE. It did not. The cents per quart, not any percent.

The CHAIRMAN. Though the percentage might have?

Mr. MONTAGUE. The percentage—

The CHAIRMAN. In other words, drop in the price paid the farmer between 1929 and 1932, which represented a drop of 45 percent, was in actual cents not more than the drop in the retail price, which on your chart shows a percentage of about 25 percent.

Mr. MONTAGUE. I don't know whether I understand your question. Mr. Eastlack tells me he has the figures here, if you would permit him. It is on a per quart basis.

Mr. EASTLACK. The last prices established by Borden's for retail milk at the beginning.

The CHAIRMAN. I beg your pardon.

Mr. EASTLACK. The last price established by Borden's for retail milk in New York City, prior to the onslaught of the depression, was 16 cents per quart, and that was August 11, 1930.

The CHAIRMAN. What was that price?

Mr. EASTLACK. Sixteen cents per quart, delivered to the homes. The class 1 price to producers, which represented the cost of that milk to us and the return to producers for milk sold by us at 16 cents per quart, was \$3.37 per hundredweight.

The CHAIRMAN. What was that per quart, or could you—

Mr. EASTLACK. If you will permit me to deal with the hundredweight, I will come back to the cents per quart. It is hard to shift quickly.

The CHAIRMAN. Very good.

Mr. EASTLACK. The lowest price to which milk fell, the retail milk at the depth of the depression, resulted in a 10-cent price, home-delivered milk in New York City. That price was established on January 23, 1933, and represents a 6-cent reduction to the consumer and the class 1 price that was established in relation to that 10-cent selling price was \$1.28 a hundred, or a reduction of \$2.19 from the previous price paid farmers. That reduction to farmers in cents per quart is

4.6 and the reduction to consumers is 6 cents, although, percentage-wise, the picture is entirely different, because obviously your reduction from \$3.37 to \$1.28 is more than a 50-percent reduction, but in the cents per quart the reduction to consumers was $1\frac{4}{5}$ cents more than the reduction to producers.

The CHAIRMAN. Well, then, considering the use of the word "distortion" in the statement, would you say that the statement of the expert who testified with respect to the production in terms of cents was any more a distortion than this chart which speaks of the reduction in percentage terms? They both deal with the same facts, and one witness speaks about a reduction in actual dollars and cents and another one presents an argument to rebut it and bases it upon percentages and both are dealing with exactly the same facts. Can one be called a distortion and the other not?

Mr. MONTAGUE. Senator, if I might clear that up for you, this chart has more than the one element in it, and it has been expressed in percentage because we have on here—

The CHAIRMAN (interposing). I have no objection to your presenting it in percentage; not at all. The only thing I was questioning about was the use of the word "distortion" in the original statement, when apparently both the witness who appeared here first and you are dealing with exactly the same figure and expressing exactly the same state of facts.

Mr. MONTAGUE. Well, I will be very glad to withdraw the word "distortion" if you desire. However, Senator, there has been, there have been statements made outside of the committee, I mean public statements made elsewhere throughout the country, that looked as if they were distorted.

The CHAIRMAN. I will grant that in studying any complex economic situation like this in which the milk industry finds itself, or indeed most every other industry, it is very easy to deal in emotional reactions, rather than facts, and we have been endeavoring to wipe away the clouds of emotion and get down to the facts.

Mr. MONTAGUE. I should be very happy to remove the distortion, Senator, the word "distortion."

The CHAIRMAN. Mr. Ferguson, do you have a question? Mr. Ballinger?

MONOPOLY IN THE DAIRY INDUSTRY

Mr. BALLINGER. Mr. Montague, you say in your statement in two places, The Borden Co. is not a monopoly. A little bit later on you make the statement that never in the history of The Borden Co. has it been a monopoly. Is that correct?

Mr. MONTAGUE. Yes.

Mr. BALLINGER. Did the Federal Trade Commission in its hearings before the Temporary National Economic Committee charge that The Borden Co. by itself was a monopoly?¹

Mr. MONTAGUE. I don't think they did, Mr. Ballinger. I don't recall the testimony vividly enough to answer that question. My recollection is that they did not.

Mr. BALLINGER. Let me ask you: Is your conception of monopoly that one concern has to have control of production or control of the

¹ Supra, pp. 2751-2880.

setting of prices or may monopoly be achieved by two or three concerns or half a dozen or a dozen cooperating to that end?

Mr. MONTAGUE. Well, I should think there would have to be a number of them.

Mr. BALLINGER. That is the way in which the term is used under modern conditions.

Mr. MONTAGUE. Undoubtedly you are familiar, Mr. Ballinger, with the statement of the Federal Trade Commission—I have forgotten the exact wording, but in an investigation they made some years ago, I am speaking now from memory; I think they said that the first 12—11 or 12—largest dairy buyers in the United States handled only some very small percentage of the total; I don't recall what it is.

Mr. BALLINGER. That may be; I don't know that; I would have to look it up, Mr. Montague. Now I want to ask you the question: Has The Borden Milk Co. ever, in cooperation with other milk companies, practiced monopoly, regionally?

Mr. MONTAGUE. Not that I know of; no, sir.

Mr. BALLINGER. Is it not a fact that the Assistant Attorney General of the United States, the attorney general of Michigan, found that in '34 and '35 The Borden's Co. in cooperation with other companies was practicing monopoly?

Mr. MONTAGUE. I don't know of it.

Mr. BALLINGER. Mr. Chairman, it was read into the record this morning or yesterday by Judge Davis.

Is it not a fact, Mr. Montague, that the attorney general of the State of New York accused The Borden's Co. and five other companies of practicing monopoly?

Mr. MONTAGUE. You mean Mr. Bennett? Well, he may have, Mr. Ballinger. I haven't in mind at the moment the statement he made.

Mr. BALLINGER. I am reading from the report of the attorney general of New York State to the Governor of the State as late as March 8, 1938:

With the consumer buyer totally unorganized at the present time, it is apparent that the six dealers referred to have control of the retail market. Nor is it necessary that this control be a formal organized control. Under the state of facts indicated herein and by the testimony, price fixing is accomplished by the simple device of playing follow the leader.

Now, Mr. Montague, have you ever heard of an organization by the name of the International Association of Ice Cream Manufacturers?

Mr. MONTAGUE. Yes, sir.

Mr. BALLINGER. Is The Borden Co. interested in this organization, hold any stock or any ties with it? Is it a member?

Mr. MONTAGUE. I think we are a member of it. I personally am not the member and have no official capacity with it.

Mr. BALLINGER. Is it not a fact, Mr. Montague, that this association is at present under indictment in Chicago under the antitrust laws?

Mr. MONTAGUE. It is my understanding that they have been indicted, or are under present indictment.

Mr. BALLINGER. Now, Mr. Montague, on page 8 of this—I haven't a printed copy of your statement; I have only the typed copy, but you make this statement:

The cost of the raw milk product is influenced to a large extent by the value of manufactured dairy products which are bought and sold in the national or world markets, and which normally reflects the laws of supply and demand.

Mr. Montague, have you ever heard of the Plymouth Cheese Exchange?

Mr. MONTAGUE. Yes, sir.

ESTABLISHMENT OF CHEESE PRICE BY ONE EXCHANGE

Mr. BALLINGER. Is it not a fact, Mr. Montague, that the price of cheese is established on the Plymouth Cheese Exchange?

Mr. MONTAGUE. I—you mean the selling price of cheese?

Mr. BALLINGER. Yes.

Mr. MONTAGUE. I think only limitedly.

Mr. BALLINGER. Well, how limitedly?

Mr. MONTAGUE. Well, to tell you the truth, Mr. Ballinger, my experience in the cheese business has amounted to about a year and a half, and although I was born and raised in Wisconsin, fairly near Plymouth, I have very little knowledge of the Plymouth cheese board, if that is what you are talking about. When I lived in Wisconsin there was quite a lot in the papers about the cheese board, but that is about the extent of my knowledge of it.

Mr. BALLINGER. Well, you don't know anything about the exchange?

Mr. MONTAGUE. The Borden Co. is not a large factor in the cheese business.

Mr. BALLINGER. Do you know whether or not this cheese exchange is open for only a half an hour a week?

Mr. MONTAGUE. I don't know that for a fact, no; it may be.

Mr. BALLINGER. Do you know whether at the end of half an hour trading an average price is established for the sale of cheese and that this price governs the cheese market for one continuous week all over the United States?

Mr. MONTAGUE. I don't know that. I did follow this, Mr. Ballinger, in what little I know of the cheese business because cheese has a very definite relationship to raw milk prices. I think Dr. Ross here made a compilation for me for our company at one time showing that the price of cheese, the quoted price of cheese, was just a little bit above the price of butter over quite a long period of time; is that right, Dr. Ross? Yes. Very slightly above. How long a period? Ten years' period. In other words, the return—I can't tell you the operation of the Plymouth board, Mr. Ballinger, but the return from whatever those prices were compared favorably with the return to butter producers for the raw milk.

Mr. BALLINGER. Well, Mr. Montague, if it were a fact—of course, we expect to sustain these facts before the Temporary National Committee in replying to your brief—if it were a fact that this exchange opens for only a half an hour a day per week and if it at the end of the trading session in which only a few cargoes fluctuate back and forth, an average price is posted and this average price governs the sale of cheese for 1 week throughout most of the United States, would you be willing to amend your statement that the value of manufactured dairy products certainly with respect to cheese is not governed by the laws of supply and demand?

Mr. MONTAGUE. If you are asking me, Mr. Ballinger, whether or not in my judgment, it would make any difference as far as I am concerned whether cheese is quoted on every board in the United

States I say "no." If they want to quote cheese on every board in the United States I am perfectly willing.

Mr. BALLINGER. Yes; but if it is quoted at one place?

Mr. MONTAGUE. I mean active trading.

Mr. BALLINGER. Fixed by one group of men?

Mr. MONTAGUE. Well, I don't see how it could be fixed by anybody. The normal thing in cheese, Mr. Ballinger—the same relationship must exist in the price of cheese—I should think, and all studies bear that out—to butter as that which I have indicated to you, because out in the cheese-producing areas—I came from there, so I know something about it—if the price of butter will return more than the price of cheese, the cheese maker will turn his separator and separate his milk and put the cream into butter and the skimmed milk back to the patrons for the hogs, and there won't be any cheese, so unless the cheese price is kept high enough to keep that milk coming into the cheese factory that milk will go into butter, as it oftentimes does.

Now, when butter was 25½ cents last year at a pegged price, cheese got down, I think, to a dime. I know that out in my home State there were a lot of cheese factories that skimmed the milk, instead of putting it into cheese because the price was higher.

Mr. BALLINGER. Well, it is true that prices may be kept in two senses: they may be kept because they are fixed or they may be kept at a certain level because of the free play of competitive forces. All I was saying that if these facts which I adduce to you are true, would you think that the price of cheese—now, never mind what the price is; if it is too low it will have all these effects on butter that you say, but just the price of cheese—could you say that the price of cheese is fixed by competitive forces where for one-half an hour a day they peg a price and for the next 6 days everybody goes looking at that price up on the board and everybody charges that price?

Mr. MONTAGUE. Well, I can't get away from the feeling, Mr. Ballinger, that cheese is fixed by competitive forces and has to be. Now, as to the detailed operation of one exchange. I have never been there; I don't know.

Mr. BALLINGER. Mr. Montague, you make the statement that "unlike some food products, particularly so-called luxury foods, the demand for milk is only slightly elastic. For this reason, even a drastic reduction in price will not increase consumption sufficiently to absorb an appreciable amount of surplus." Do you think, Mr. Montague, that there are any undernourished children in the United States?

Mr. MONTAGUE. Certainly, I am sorry to say.

Mr. BALLINGER. Perhaps a good many?

Mr. MONTAGUE. I am afraid so.

Mr. BALLINGER. Then, if there was a decrease in the price of milk substantially, don't you think that mothers who have undernourished children on their hands would buy 2 quarts of milk instead of 1, if the price came down far enough?

Mr. MONTAGUE. Well, that, of course, would be hoped for, Mr. Ballinger, but many studies on the subject, I think, some of which are available, indicate that the demand is not very elastic. What I was pointing out there particularly, Mr. Ballinger, the price of evaporated milk has been very low for some years. It has taken 10 years to increase that consumption even as much as it has. But what I was pointing out principally is the fact that you can't get away from, that

for every hundred pounds of milk you have in November, there are from 200 to 300 pounds of milk in a milkshed in June. Now, our company is particularly interested, as they should be, in finding ways and means to sell milk cheaper, because if we could sell milk cheaper over a long period of time—not just temporarily; that would do no good—but over a long period of time, with proper educational background, I think the consumption per capita could be increased, although the consumption per capita in the United States, I understand, is the second highest in the world.

Mr. BALLINGER. We will have something to say about that later, Mr. Montague. On page 12, Mr. Montague, I should like to have you clarify the statement a little bit. I am a little puzzled by it, and I want to ask you some questions about it. Apparently you are tracing the Losses of The Borden Co. to this factor: "Competition from dealers who pay less than union wages and frequently less to the farmer than the prevailing price for fluid milk has caused our Chicago operation to lose a substantial portion of its former business." Now does that statement mean this, Mr. Montague, does it mean that there are milk companies in Chicago which deliver from door to door and which hire independent, hire nonunion truckmen and because of the economies which they achieve as a consequence of hiring nonunion truckmen, they were able to break the price of milk in Chicago?

Mr. MONTAGUE. Partially.

Mr. BALLINGER. Well, substantially or just slightly?

Mr. MONTAGUE. Well, I don't know how many there are exactly, Mr. Ballinger, but I think I covered that in my brief. There are hundreds—I wouldn't attempt to tell you how many—of so-called peddlers in Chicago. There are hundreds of them in New York. I think the estimate is about 700 or 800 in New York, who go out and sell milk without regard—and there is what represents the difference between that which they pay the processor and that which they collect from the consumer. In Chicago there has been a great deal of business taken from our company on that basis.

Mr. BALLINGER. Now do you mean when you speak about these peddlers, are they the same kind of a person as an over-the-counter dealer?

Mr. MONTAGUE. No, no, Mr. Ballinger. They will go out and they are really independent merchants; that is what they are; they will buy a small truck or truck and buy milk from a processor and the difference between what they pay to that processor and the difference they sell to the consumer is their wages for that day's work, plus their cost of running that truck. A substantial part of the loss—well, yes, substantial—of the loss of business that our company has experienced in Chicago has been due to that. The rest of it is due to the natural trend, as I explained, from retail route to store.

Mr. BALLINGER. Now isn't almost every milk company which distributes milk from door to door interested in protecting themselves against this kind of competition?

Mr. MONTAGUE. Well, Mr. Ballinger, as far as my individual thinking on this subject is concerned, I think that we should be interested and we are interested in finding cheaper ways to distribute milk, just as cheap as we can.

Mr. BALLINGER. If the milk companies are interested in their door-to-door delivery system, and I take it for granted they are?

Mr. MONTAGUE. We are interested in both kinds.

Mr. BALLINGER. Why would they sell milk to peddlers who would be undermining that part of the business?

Mr. MONTAGUE. We do not.

Mr. BALLINGER. Why do the others do it?

Mr. MONTAGUE. Because there is a profit in it.

Mr. BALLINGER. As much profit as there is in door-to-door delivery system?

Mr. MONTAGUE. There is no profit.

Mr. BALLINGER. No profit in that?

Mr. MONTAGUE. No profit, but here is what has happened. Here is what happened, for instance, Mr. Ballinger. Some milk is loose in the milkshed, some surplus milk that isn't handled. That comes in and is paid for at less than the class 1 price. As I explained to you, it requires a comparatively small investment to put in pasteurizing equipment. Someone will pasteurize that milk and sell it to these peddlers at that platform; he has nothing to do with delivery and these men simply operate the delivery end of it.

Mr. BALLINGER. Did you say there was no profit in fluid milk?

Mr. MONTAGUE. There is no profit in fluid milk in Chicago.

Mr. BALLINGER. There is elsewhere though?

Mr. MONTAGUE. Some places, some places not.

Mr. BALLINGER. I mean on the whole there is a profit.

Mr. MONTAGUE. Very infinitesimal.

Mr. BALLINGER. Not profitable hardly at all?

Mr. MONTAGUE. I would say we are very disappointed in the profits.

Mr. BALLINGER. You told the committee also that you weren't making any money on the manufactured dairy products?

Mr. MONTAGUE. No; I didn't say that.

Mr. BALLINGER. You didn't say that?

Mr. MONTAGUE. No, sir; I said that we would not produce a single can of milk in the milksheds, because the cost is higher.

Mr. BALLINGER. I am quoting from your statement, Mr. Montague—

"A casual opinion unfounded in fact has been expressed before this committee that large dealers profit from the sale of products manufactured from surplus.

They don't make any money out of it.

Mr. MONTAGUE. Will you read the statement to me again?

Mr. BALLINGER (reading):

Casual opinion unfounded in fact has been expressed before this committee that large dealers profit from the sale of products manufactured from surplus.

Mr. MONTAGUE. In milksheds.

Mr. BALLINGER. You say it is unfounded. They didn't make any profit.

Mr. MONTAGUE. In milksheds.

Mr. BALLINGER. You say in the sale of products manufactured from surplus.

Mr. MONTAGUE. That is the only place there is surplus—in the milksheds.

USE OF SURPLUS MILK FOR MANUFACTURE OF DAIRY PRODUCTS

Mr. BALLINGER. Of course, you use surplus in making manufactured dairy products, you don't use class 1 milk.

Mr. MONTAGUE. That is right.

MR. BALLINGER. What you are saying is whenever you get surplus milk and manufacture dairy products out of it you don't make any money.

MR. MONTAGUE. What I mean by that, Mr. Ballinger, is simply this: That the surplus we pack in New York State, for instance, in evaporated milk—I think I proceeded to go on and exemplify that, didn't I?

MR. BALLINGER. No; I think this statement hangs by itself.

MR. MONTAGUE. Let me try to explain that to you. Evaporated milk that we might pack in New York State costs us more, actually costs us more to pack than to pack the milk out in Wisconsin or in some place that is purely a manufacturing area. Now it costs us more for two reasons: First, because the milk costs a little more; second, because we can only run that plant for 8 months, 7 months, depending on when there is a surplus. I think I also made the statement that from preference we would not produce a single case in the milkshed if it wasn't for the necessity of finding an outlet for the surplus.

MR. BALLINGER. Can I ask you this question? Do you consider finding an outlet for the surplus milk of the farmer as sort of a duty of yours, or are you going to look at it as a business plan. Is it or is it not profitable?

MR. MONTAGUE. We have to look at it from both standpoints as a matter of fact.

MR. BALLINGER. In other words, you are telling this committee—perhaps I may misunderstand you—that you are perfectly willing to manufacture at a loss in one area so you may do the farmer a big favor, take his surplus milk.

MR. MONTAGUE. If we didn't or somebody didn't take that surplus, Mr. Ballinger, what would become of it?

MR. BALLINGER. I suppose if I were buying steel to make a certain product out of steel I would buy only what I wanted.

MR. MONTAGUE. Well, if the fluid-milk industry were to buy on that basis in total, I have shown you here in chart 1, and this is fairly indicative of all markets, Mr. Ballinger, that the supply of milk goes from perhaps 100 pounds in November to maybe 300 pounds in June. You know, some markets don't go quite that high; some go even higher. Somebody has got to take care of that surplus or this is what is going to happen: That surplus is all coming down so that this amount right here is going to be paid for it in months of big production, this will bring no higher price than this, because as long as the price is higher for class 1, that milk is bound to seek the higher-price market.

MR. BALLINGER. I just want to get back to what—I am not a businessman; I am an employee of the Government but I thought businessmen only purchased what they could use at a purchase. I don't understand why you want to go on manufacturing dairy products in New York State unless you are getting something out of it. In other words, if it is a different kind of business concept here, I want to get it.

MR. MONTAGUE. To tell you the truth, Mr. Ballinger, we are about ready to get out.

Mr. BALLINGER. Then would you say, Mr. Montague, that you really do make a good deal of money on your manufactured dairy products?

Mr. MONTAGUE. No; we make money in general on manufactured dairy products. I don't want to give you the impression that we do not.

Mr. BALLINGER. That statement, then, is misleading.

Mr. MONTAGUE. But as far as what we make in the fluid milk-sheds—I think if you have in mind that most of the large manufacturers are companies which have very little fluid milk operations, if any—for instance, the largest manufacturer of evaporated milk, I think, is Carnation. I don't believe they have over one plant in the fluid-milk area.

Mr. BALLINGER. Let me ask you another question about the Chicago market. You have denoted the peddler. Don't you think that the major influence in breaking the price of milk in the Chicago area was due to the rise of the so-called over-the-counter dealer whose differential in selling price to the public was far below that of the peddler whom you described?

Mr. MONTAGUE. First, Mr. Ballinger, it started with the peddler; that was the first of it. In perhaps the last 2 or 3 years, over the counter as much as the peddler. You mean the cash-and-carry store?

Mr. BALLINGER. Yes.

Mr. MONTAGUE. It started very largely with the peddler, and from that has grown into this cash-and-carry store, as I recall it.

Mr. BALLINGER. Now, you say that the cash-and-carry system or the over-the-counter system owes its success chiefly to the fact that the employees—are you going to still say nonunion workers, or are you going to say that they purchase more cheaply from the farmer?

Mr. MONTAGUE. Well, Mr. Ballinger, my position on the cash-and-carry system—I am holding no defense for any system—the cash-and-carry system, if the farmer gets the same price and with the same obligations to take care of the surplus—the surplus is there. Somebody has to do it; it can be shifted from producer to producer or one group from another, but it can't be eliminated, and equality of wage scales, if the depot plan—if you want to call it that—is the thing that the American public want and will patronize the most. I hold no brief for any other system.

The CHAIRMAN. May I interrupt? I was very much interested in your discussion about the way you handle the surplus milk in the New York area. I understand your statement made orally as well as the typewritten statement that you submitted, that you maintain your condensaries in the New York area solely for the purpose of preventing the surplus milk which you manufacture into these various products from flowing into the fluid-milk market and thereby breaking the price.

Mr. MONTAGUE. That is indirectly the fact, Senator. We maintain our condensaries in New York because the association of farmers insist on something being done with that surplus.

The CHAIRMAN. You don't do it, then, because of the profit that you make out of the product of the condensaries?

Mr. MONTAGUE. No. As I pointed out, Senator, we can actually produce—I don't want to give the impression that we produce all of

our canned milk in New York, because that is not true, or anywhere near all of it, but we do pack a lot of it. Now, we could actually pack that milk in areas in which we could operate our plants the year round at lower cost than we can produce it in New York State under intermittent conditions that we have there.

The CHAIRMAN. If somebody else would take the surplus in New York, you would be perfectly willing to have them take it and you would manufacture your product in another shed and make money?

Mr. MONTAGUE. And make more money.

The CHAIRMAN. You do make some money on the condensaries in New York, then.

Mr. MONTAGUE. One year we might, and one year we might not.

The CHAIRMAN. So the primary purpose in maintaining the New York condensaries is to prevent the surplus from breaking the fluid-milk market.

Mr. MONTAGUE. That is right, to the farmer.

The CHAIRMAN. To the farmer?

Mr. MONTAGUE. Yes.

The CHAIRMAN. What effect would it have on you?

Mr. MONTAGUE. It would have the effect of breaking the whole situation when that surplus came on. Senator O'Mahoney, when you have 2 pounds of milk to every pound that can be consumed, it is impossible, as I think I have pointed out, to expand demand up and down.

The CHAIRMAN. You don't follow this policy primarily for the benefit of the farmer?

Mr. MONTAGUE. Well, it is a dual policy. If that milk came into the city, here is what would happen: The price of all milk would sink to the lowest manufacturing level.

The CHAIRMAN. And you would suffer by it, every distributor would suffer by it, the producer would suffer by it. Is that right?

Mr. MONTAGUE. Yes; I think that is true. Now, for a time we didn't handle any surplus, or very little surplus, in New York.

The CHAIRMAN. What happened under those conditions?

Mr. MONTAGUE. The association that we buy our milk from handled most of it, and I believe it is correct that they found on many of the products that it had to be put into, that we could do it more cheaply and more economically than they could.

The CHAIRMAN. Do other distributors share your view with respect to this policy?

Mr. MONTAGUE. I don't know; I have never discussed it with any other distributors.

The CHAIRMAN. What proportion of the surplus milk do you take for your condenseries in this shed?

Mr. MONTAGUE. I can't tell you exactly, Senator. We handle, roughly, the last calculation that was made, somewhere around 90 to 95 percent of the surplus that our own operations create. Do I make myself clear?

The CHAIRMAN. I don't know how you create the surplus.

Mr. MONTAGUE. In other words, I have shown you here, Senator, that this milk fluctuates. If a farmer produces a hundred pounds over here in November—and that is what we need to have in our fluid-milk operations as a minimum requirement in November—that same farmer

will produce, oh, two to two and a half times as much in June. If it took 10,000 farmers, just as an example, to supply us with our requirements at this time of the year, and we will assume that was a million pounds, we would have two to three million pounds in June. Now, when I say we take care of 90 to 95 percent of the surplus we create, that is what I mean; we take care of 90 to 95 percent of the increased poundage that comes as a result of seasonal surplus on the farms within our own surplus operations.

The CHAIRMAN. In other words, you don't take all the surplus of the farmers who sell to you.

Mr. MONTAGUE. We take 90 to 95 percent of the surplus.

The CHAIRMAN. Let's look at the column for May [referring to "Exhibit No. 441"] as an example. That indicates that 215, or 20,000,000 pounds of milk were consumed in the fluid market that month.

Mr. MONTAGUE. That is right.

The CHAIRMAN. And 375,000,000 pounds apparently were used for surplus milk.

Mr. MONTAGUE. Other classifications, other than fluid milk.

The CHAIRMAN. What proportion other than that 375,000,000 pounds is bought?

Mr. MONTAGUE. I can't tell you that, Senator. This chart is the whole State of New York. I can't tell you that.

The CHAIRMAN. You take only 95 percent of the surplus of your own operations. Now, there are other operations in the State?

Mr. MONTAGUE. That is right.

The CHAIRMAN. Are they as much as yours?

Mr. MONTAGUE. The total of all the other operations in the State is very much larger than ours.

The CHAIRMAN. Very much larger?

Mr. MONTAGUE. Oh, yes.

The CHAIRMAN. What happens to that surplus milk?

Mr. MONTAGUE. Well, the other elements in the market take care of some of the surplus, the Dairymen's League take care of some of it, other companies take care of part of it; some companies don't take care of any of it.

The CHAIRMAN. Would you say that all of the condenseries which make evaporated milk and butter and cheese and the like are operating as you operate, without a profit?

Mr. MONTAGUE. I have no direct knowledge of that. I am perfectly frank to admit to you that other companies have made a great deal more money in their evaporated-milk operations than we have. I know that a contributing factor in that are the somewhat higher costs of the milk we pack in New York State.

The CHAIRMAN. Do you think that that would apply in the shed, in the New York shed?

Mr. MONTAGUE. I can't speak about anything except our own company, with which I have some familiarity.

The CHAIRMAN. Of course, you keep in pretty close touch with the other companies, I assume, and you have a pretty good idea as to whether or not they are making a profit where you don't.

Mr. MONTAGUE. I know that the evaporated-milk industry makes more profit than we, generally speaking.

The CHAIRMAN. In New York State?

Mr. MONTAGUE. I don't know about New York State. I would assume that their costs in the Middle West are just as low as our costs.

The CHAIRMAN. You see you are presenting a rather startling picture to my mind. I think of New York City and Poughkeepsie, Schenectady, Buffalo, and all the big cities of New York as concentrated areas of population which furnish an ideal market not only for fluid milk but for all of these manufactured products, and you are telling us that though you operate in that shed, you make profit only out of your fluid milk sales and not out of the product of your condenseries.

Mr. MONTAGUE. I think I corrected myself, a very small profit or a lesser profit on that portion that is sold there, and the reason, Senator, that there aren't more evaporated milk companies in New York State—aren't more companies buying there, instead of buying out in Wisconsin, Minnesota, and Tennessee, is the very fact I pointed out to you—that those plants can only run 5 months, 4 months, 7 months, depending on how the seasons run, and that the actual cost of packing that milk, even if the raw milk cost were just the same, would still be more than it can be packed for out in those other places.

The CHAIRMAN. You see the general picture that you are drawing here by the entire story is that of a distributor of fluid milk and of manufactured products, who complains about the adverse effect upon the consumer of the organized activities of producers, and the organized activity of labor and that you, like the consumer, are suffering from the effects and abuses of this organizational development, but that your company is absolutely independent, it does not participate either by forming negotiations or follow-the-leader device in any effort to maintain or to raise the prices. Does that correctly state the picture that you want to present?

Mr. MONTAGUE. We have very little control of it. I pointed out to you, Senator, when conditions are such that the farmers force the price up, the margin is so small in this business—you heard the testimony this morning that some of the dealers in Detroit were financially embarrassed. The margins are so small that when that price goes up there just isn't any other alternative if you are going to stay in business than to collect more for it if you are going to pay those prices.

With respect to this surplus plan, Senator, I know of two large evaporated milk companies who had large operations in New York State 12 or 15 years ago. All of them have withdrawn. They are both very large companies.

The CHAIRMAN. But the definite conclusion that you want to leave with the committee is that Borden's as a distributor and the consumer are the victims of the combined activity of the producers and labor.

Mr. MONTAGUE. Only the abuses, Senator; only the the abuses of those.

The CHAIRMAN. How important are those abuses?

Mr. MONTAGUE. They are very important.

The CHAIRMAN. Then these abuses by these two organized groups are bearing heavily upon Borden and upon the consumer.

Mr. MONTAGUE. They are bearing heavily on the price the consumer pays for his milk. There is no question about it.

The CHAIRMAN. And you offer no suggestion as to the elimination of these abuses except the prayerful hope that the producer and the worker may be educated to take, on the one hand, less for the milk, or upon the other, a lower wage scale.

Mr. MONTAGUE. Well, now, on wages, Senator, let me again make it clear—

The CHAIRMAN. I understand that you say you are a believer in good wages.

Mr. MONTAGUE. I am only against the abuses.

The CHAIRMAN. Of course, that is all I am talking about, and you speak of the excessive wage scales as an abuse. Now, do you pay excessive wages?

Mr. MONTAGUE. We do in some places, in my judgment; excessive wage and commission rates.

The CHAIRMAN. Where?

Mr. MONTAGUE. Chicago.

The CHAIRMAN. Do you in New York?

Mr. MONTAGUE. No; I wouldn't think we do; not substantially.

The CHAIRMAN. Do you pay excessive wages in your condenseries?

Mr. MONTAGUE. I don't think so.

The CHAIRMAN. And you don't pay excessive wages in your deliveries?

Mr. MONTAGUE. In Chicago?

The CHAIRMAN. No; New York.

Mr. MONTAGUE. I wouldn't say that they are in any way comparative with the excessiveness in Chicago.

The CHAIRMAN. And so far as New York is concerned?

Mr. MONTAGUE. We pay high wages, but we always want to pay high wages, but there must be an economic value to that service performed, or it is going to continually result, as you can readily see, labor costs being such a large proportion of the delivery expense, in higher prices.

The CHAIRMAN. But so far as your testimony now goes, in New York you have no complaint of the effect of organized labor, there are no abuses in the New York area to which you want to direct particular attention.

Mr. MONTAGUE. No substantial abuses, Senator.

The CHAIRMAN. In what other areas beside Chicago do they exist?

Mr. MONTAGUE. Well, that is the principal area.

The CHAIRMAN. How about the abuses by organized producers in New York?

Mr. MONTAGUE. Well, New York has long—

The CHAIRMAN (interposing). Bearing in mind you maintain these condenseries solely for the purpose of helping the farmer.

Mr. MONTAGUE. New York has long had, in my judgment, far too high a class 1 price, particularly since the supply in New York has become so much greater in proportion to demand than there was 10 or 15 years ago. I think, speaking from memory, all during the twenties there was a shortage of milk an actual shortage of milk in New York milk shed in the fall. Is that substantially correct, Joe?

Mr. EASTLACK. Yes.

Mr. MONTAGUE. In other words, production and demand were fairly evenly balanced. Now, since 1930, I don't know what the figures

show as to the increase per year or the decreased demand. I think the figures show the demand in New York is just about the same as it was in 1930, approximately. But production is very much more. In other words, the production of the New York milk shed in total number of pounds in relation to the consumption is increased so much as to bring on an ever-increasing surplus burden.

The CHAIRMAN. And that is going on all over the country, too, is it?

Mr. MONTAGUE. Well, I can't speak for all over the country, but I think it is. I think the Department of Agriculture reports show that the productions in 1938 were the highest on record, and I think the current rate of production of 1939 will exceed '38. That is just a belief.

The CHAIRMAN. With this condition growing worse, as you described it, and since you offer no constructive solution, suggest only that the matter be left alone, what conclusions are we to draw with respect to the profit status of your operations? You see every other element here, according to what they say to us, asks for Government intervention, and you say let Government stay out.

Mr. MONTAGUE. That is just the point, Senator. Government might control this. I am by no means convinced, but I am perfectly willing to believe that if (and that is a big "if") the Government, if they took control of these markets, would establish a class 1 price which had a reasonable relationship, not some fictitious relationship, but a reasonable relationship to the value of milk in manufactured products, then I think they could probably go a long way toward controlling this situation, but so far all of our experiences with control have been most unfortunate. It was only controlled for a small segment of the industry and not controlled for the rest of the industry.

The reason that I think that the Department of Agriculture's formula or code price on evaporated milk has worked fairly successfully is that it has a very definite and reasonable relationship to the basic prices of butter and cheese. If the fluid-milk prices, just to use that example, had been established by the Government control agencies, be they State or Federal or what not, with the same fundamentals in mind, in my judgment we would not have much of the confusion that we have here today.

The CHAIRMAN. You say that that type of Government control would be beneficial?

Mr. MONTAGUE. I said I hoped it would be.

The CHAIRMAN. Well, I realize that this is a very complicated matter and I am not sitting in judgment upon you, either, let me say that. I want to make that very clear, but the evidence all indicates that the producer believes that the free competitive system has operated to his very great disadvantage. The worker likewise feels that it has operated to his disadvantage, and both of these at one time or another charge that the distributor, without the intervention of the Government, will exercise the control over the price by which the amount which the producer gets and which the consumer pays is fixed.

Mr. MONTAGUE. What is to prevent them from exercising a price that is unfair to the consumer?

The CHAIRMAN. Of course there isn't anything, but they ask mainly the establishment of some sort of Government control. I am not

ready to say that it would be a desirable thing to say, but fundamentally I like to think that competition can be restored, not only in this but in other industries, and maintained, and that abuses can be eventually eliminated, because I don't think it is a desirable thing to have private individuals fixing prices, nor do I think it is a desirable thing for Government to fix prices if they can be avoided. But you give us the picture that the distributors, at least so far as Borden's are concerned, are victims in this situation.

Mr. MONTAGUE. Of abuses. We are not the only distributor that is a victim of it, either.

The CHAIRMAN. When I questioned you as to where those abuses exist you speak of a limited area in Chicago.

Mr. MONTAGUE. No, Senator.

The CHAIRMAN. Well, they don't exist in New York.

Mr. MONTAGUE. Yes; it does. The high class 1 price in New York—you are thinking of the labor situation, aren't you, with that?

The CHAIRMAN. Oh, no; I questioned you about both.

Mr. MONTAGUE. I told you that Chicago was particularly burdensome from the labor standpoint. Now, the high class price in New York, I think there are, I don't know how many, but very many markets with class 1 prices very much above what, in my judgment, would be the sound price relationship between manufacturing values in class 1, not confined to any one or two markets—many markets. Now, the costs of distributing milk are so fixed that the prices can't go up and down without those two factors.

The CHAIRMAN. Hasn't that come down to a statement that it would be a better condition in the industry if the price to the producer were a little bit lower and the price to the consumer a little bit higher?

Mr. MONTAGUE. A little bit lower.

The CHAIRMAN. The price to the producer on the average would be a little bit lower and the price to the consumer on the average would be a little bit higher.

Mr. MONTAGUE. If you are asking me if the returns to the investors of the industry couldn't be increased, I should be very hopeful because they have been very meager.

The CHAIRMAN. If they are, that is the inference we get out of it. Now, you understand again I am not trying to pass judgment upon your conclusion, but that is what you are telling us, isn't it?

Mr. MONTAGUE. Yes; and I am saying that the price to the consumer cannot come down; there is no way that I know unless some new system of sterilizing milk or some new way of preserving it where you can deliver it twice a week or once a week, or something of that kind—unless science finds some new ways I know of no way to appreciably cut that delivery cost because labor is such a large part of it. On Government control I can see very well where someone would say with all these chaotic things, "My gracious, we can't do anything but have the Government control."

The CHAIRMAN. A lot of people are saying that now.

Mr. MONTAGUE. But we have had Government control for 5 years, and at no place did it work, and I have tried to point out here in these abuses why it didn't work. Now, you have two things, Senator, that I think are important in milk control as differentiated from other control: In the first place, it is to the advantage of the pro-

ducer to violate the law. That is the first thing. It is to the advantage of the consumer—

The CHAIRMAN (interposing). You are talking now about what law?

Mr. MONTAGUE. About milk-price control. It is to the advantage of the producer to violate the law; it is to the advantage of the consumer to violate the law. In one instance the producer may eliminate from his individual check any surplus obligations that he might have.

The CHAIRMAN. How about the distributor? Does he get any advantage from violating the law?

Mr. MONTAGUE. Certainly he does, as I have shown you in the classified buying plan.

The second is, the consumer benefits when she buys milk cheaper than the announced price of price control, and that is the position you are in. That is one of the fundamental factors why milk control has not worked, in my judgment. The minute that incentive comes in there to thwart the law, you are bound to produce a condition somewhat similar to the days you had in prohibition, because there is too large an incentive. Now, when you narrow that incentive, with a lower class 1 price, in my judgment, you will make the workability of control more nearly possible if for social reasons it seemed desirable to have price control in the milk-distributing industry. That is the main thing.

The CHAIRMAN. It may be that this industry which we are discussing now is characteristic of the whole economic problem.

In the United States we are told there are from ten to eleven million persons unemployed, with 2,500,000 or 2,800,000 persons on W. P. A. getting a miserable security wage. These people are not buying your milk, they are not buying the producers' milk, and they are not affording the market in which labor can find employment, and yet we sit around this table and we talk about great surpluses of milk. So it is a problem of finding out how best to distribute this product which a large proportion of our people need but can't get, and which the producers can't sell at a profit, which the distributors say they can't sell at a profit. How are we going to deal with this surplus?

Mr. MONTAGUE. Senator, I think that is really the American problem.

The CHAIRMAN. It is the problem.

Mr. MONTAGUE. I think that is. Speaking only for myself, it is my belief that farm prosperity comes only, and it seems to me charts more or less indicate it, when you have urban prosperity. I agree with your statement; you can't have adequate farm prices with 10,000,000 people out of work.

The CHAIRMAN. And yet you suggest to us a reduction of this price to the producer on the one hand and higher prices to the consumer.

Mr. MONTAGUE. Only those prices that so far are above the other prices.

The CHAIRMAN. That is, the class 1 price?

Now, by the way, speaking of class 1 prices, let me refer to chart No. 2, which we were discussing a little while ago (referring to "Exhibit No. 442") which was presented for the purpose of showing the relation of butter prices to the prices for fluid milk and the

variation during the period from '29 to '38 is based, as far as the farm price is concerned, upon the class 1 price, is it not?

Mr. MONTAGUE. Class 1 price; yes.

The CHAIRMAN. Now suppose you had used the price for all the other classifications, the blended price. Would that line not have been very different from what it is now?

(Upon the instructions of the chairman the discussion at this point was off the record.)

Mr. DAVIS. Mr. Montague, you have stressed that one of the abuses, as you understand it, and one of the reasons why the price to the consuming public in liquid milk cannot be reduced is because the class 1 price, in other words the price of the milk which is to be sold in bottles, is too high compared to the price fixed for the lower classification. I understand that was your position. Is that correct?

Mr. MONTAGUE. The price that has been fixed, Judge Davis, in most instances for so-called class 1 milk, has, in my judgment, been fixed at too high a level over the manufacturing value of milk.

Mr. DAVIS. That is what I understood.

Mr. MONTAGUE. I say that because in my judgment the industry and the consuming public and the producers themselves might prove to be better off with lower class 1 prices with resulting lower prices to consumers.

Mr. DAVIS. That is what I understood. What would you think about just having one price, instead of nine classifications and nine prices in New York, and then allowing the price on liquid milk and the price on manufactured products to become adjusted accordingly?

Mr. MONTAGUE. Well, they will all sink to the level of the lowest price, about the level of the evaporated milk formula, in my judgment.

Mr. DAVIS. Do you mean to the farmer or to the public?

Mr. MONTAGUE. Both.

Mr. DAVIS. Well, in other words, you think one of the abuses is this disparity in price, yet you don't think it would be a good thing to change it. Is that the idea?

Mr. MONTAGUE. I think, Judge Davis, that you may be changing it too much. If you let it fall to the lowest, if you are thinking of Government price fixing that would come into any market and fix all the prices at the lowest level of any dairy product, I think that that would not be an adequate price to producers in that shed so that 2 or 3 years from that time milk would be available generally. I think the price would be too low.

Mr. DAVIS. How do you determine, and who should determine, the correct line of demarcation between prices for the different uses?

Mr. MONTAGUE. Well, the price of milk going into butter, for instance, Judge Davis, is governed very largely by whatever butter is sold at in the open market. Most of the butter is made in Minnesota, isn't it, and Iowa—through that district?

Mr. DAVIS. As a matter of fact, the price of butter in the United States is virtually fixed by the Chicago Butter Exchange, is it not?

Mr. MONTAGUE. No; I wouldn't say it was. It may be fixed for that area, but the Chicago exchange I do not think has any undue influence.

Mr. DAVIS. It is published in the New York reports and everywhere else all over the country as soon as they fix the price of butter in the Chicago Butter Exchange, and it is pretty generally followed.

Mr. MONTAGUE. It isn't followed on the Pacific coast at all. I would say it is the dominant market in Chicago.

Mr. DAVIS. I understand the situation out there on the Pacific coast has no relation to the balance of the country, and vice versa, but otherwise it is.

Mr. MONTAGUE. The Chicago market I would say is the dominant butter exchange.

Mr. DAVIS. Now, on this question of use, you showed a map there showing the surplus, and that there was a surplus each month. How much is used constantly in every area for ice cream, for instance?

Mr. MONTAGUE. In every area?

Mr. DAVIS. For, we will say, the New York area. It is used everywhere in large quantities.

Mr. MONTAGUE. The total consumption of ice cream in the United States—I can't give you the exact figures, but it is a very small percentage of the total milk supply. Have you the figures, Dr. Ross,¹ of what ice cream use is? It is very small—3 or 4 percent, something like that.

Mr. DAVIS. Is the Carnation Milk Co. still manufacturing dairy products in New York?

Mr. MONTAGUE. I can't tell you for sure, Judge; I think they have one plant there, although that I am not sure of. I don't know whether it is in New York or Pennsylvania.

Mr. DAVIS. You say they are the largest manufacturer of dairy products—

Mr. MONTAGUE (interposing). No; I said they were the largest manufacturers of evaporated milk.

Mr. DAVIS. They have plants all over the country?

Mr. MONTAGUE. I don't know how many they have.

Mr. DAVIS. Well, they don't sell bottled milk, do they?

Mr. MONTAGUE. They have a few operations on the west coast, I think 2 or 3 cities on the west coast, and 1 place in Iowa. Outside of that, to my knowledge, and to my knowledge only, from their annual reports which are published—

Mr. DAVIS (interposing). They do not sell in the State of New York in bottles?

Mr. MONTAGUE. They sell canned milk there, lots of it.

Mr. DAVIS. I say in bottles.

Mr. MONTAGUE. No; no bottles.

Mr. DAVIS. Now, if it is so much more expensive to manufacture evaporated milk in New York State, why does the Carnation Co. still do business there in the manufacture of evaporated milk, when they could go anywhere else in the country with a manufacturing plant?

Mr. MONTAGUE. I think they have closed about 12 plants in the last 15 years there—their plants and companies they have taken over. I think they built 2 or 3 down in your country.²

Mr. DAVIS. Yes, they did; and so did your company.

¹ Economist for The Borden Company.

² Mr. Davis was formerly a Member of Congress from Tennessee.

Mr. MONTAGUE. Yes.

Mr. DAVIS. Can you tell us the price that the farmer was paid, we will say, last year on the average for milk in your outlying plants as compared to what was paid for it in these large populous areas?

Mr. MONTAGUE. No; I cannot tell you exactly, Judge, because I haven't those figures with me. That was somewhere between, my guess would be, 3 to 10 cents a hundredweight.

Mr. DAVIS. You mean 3 to 10 cents difference?

Mr. MONTAGUE. Yes; higher cost in the fluid milkshed than out in the manufacturing area.

Mr. DAVIS. You are speaking of it in the New York area?

Mr. MONTAGUE. Yes. New York is the only area, I believe, in which we have a condensery in fluid milkshed.

Mr. DAVIS. Are you speaking of the farm price?

Mr. MONTAGUE. I am speaking of the farm price; the actual milk, Judge, cost somewhere within that range more than that actual milk would have cost out in the other area.

Mr. DAVIS. Three to ten cents a hundred pounds?

Mr. MONTAGUE. It might have been at times 15; I guess it was, as a matter of fact, as high as 15.

Mr. DAVIS. You mean per hundred pounds?

Mr. MONTAGUE. Yes.

Mr. BALLINGER. Mr. Montague, you say unless there is revolutionary technique developed on account of the high labor cost in producing fluid milk you don't see how you can get it to the consumer any cheaper. I think you referred specifically to Chicago, we n't that it?

Mr. MONTAGUE. I am hopeful that some way we can find—we don't know it now.

Mr. BALLINGER. Why don't you try milk depots?

Mr. MONTAGUE. Well, our position—I am glad you brought that up, Mr. Ballinger. Our position on milk depots I think I indicated somewhat to you, or any type of distribution, any new type, is this. We don't believe—we have been able to see no evidence which would lead us to believe—that a large metropolitan population, not just a small segment of it but a large part of it, can be adequately served by that system of distribution. That is why we haven't gone into it.

Mr. BALLINGER. Do you know how many over-the-counter milk dealers there are at present in Chicago?

Mr. MONTAGUE. No; I do not.

Mr. BALLINGER. I think the Department of Justice reports 8 or 9 thousand.

Did you listen to the testimony of Mr. Johnson, or did you read any of it?

Mr. MONTAGUE. I read parts of it.

Mr. BALLINGER. Do you know he started out selling 26 quarts of milk and is today the fourth largest distributor in Detroit?

Mr. MONTAGUE. That is what I read in the testimony.

Mr. BALLINGER. Wouldn't that indicate there might be something in the milk-depot idea?

Mr. MONTAGUE. There might be. As I said, I hold no brief for any particular form, but I don't believe any large metropolitan area could be served. I think if that were the only system used in Detroit

it might be quite different. Any of these systems—I think the measuring stick should be whether or not they have inherent advantages that other systems haven't got if you are making final judgment as to their efficiency. I think there will always be a market for retail delivered milk. It may become more limited, but there will always be some market.

Mr. BALLINGER. Mr. Johnson testified, if you look at the record, that about 50 percent of his shops were in the exclusive districts of Detroit, that many rich people came down and bought it, in their cars.

Mr. MONTAGUE. I have no knowledge of that.

Mr. BALLINGER. Mr. Montague, does The Borden Milk Co. import milk out of the New York milkshed into the New York market?

Mr. MONTAGUE. For what?

Mr. BALLINGER. I mean ship it in.

Mr. MONTAGUE. Ship fresh milk in, uninspected milk?

Mr. BALLINGER. No, no; inspected milk, but milk purchased at points beyond the New York milkshed, say in Wisconsin.

Mr. MONTAGUE. No; we can't, under the health department rules.

Mr. BALLINGER. For manufacturing purposes, do you?

Mr. MONTAGUE. We don't manufacture in the city of New York.

Mr. BALLINGER. In the New York area you have condensaries, don't you?

Mr. MONTAGUE. To the condensing plants we run in New York we don't ship milk from Wisconsin in tank cars or tank trucks to New York. The freight would be prohibitive.

Mr. BALLINGER. How about New England and Pennsylvania?

Mr. MONTAGUE. I think we have one plant in Pennsylvania. I think we have a plant or two in New England. The New York milkshed, I think, extends about 400 miles out of New York. Those plants are still in the New York milkshed.

Mr. BALLINGER. Do you think under the classified-payment plan for class 1 milk and class 2 that the farmer who sells his milk can adequately check the books of the distributors to see there is a proper allocation of the amount going into class 1 use and class 2 use and class 3? Under this classified plan of payment, in New York there are nine classifications, aren't there?

Mr. MONTAGUE. That is right.

Mr. BALLINGER. Do you think the farmers can adequately check the books of distributors to find that out, whether there is proper allocation—as complicated as this is?

Mr. MONTAGUE. They claim they can. They seem to be very confident that they can.

In our case they put a certified public accountant on us and do it pretty carefully.

Mr. BALLINGER. This has no reference to The Borden Co., and please do not understand it so, but did you know the Federal Trade Commission reported that in the Philadelphia area alone in 1 year the farmers were gypped of over \$500,000 because milk purchased at surplus price was used in class 1 purposes?

Mr. MONTAGUE. I never read that. We don't operate in Philadelphia.

The CHAIRMAN. Mr. Montgomery, seated at the table here, is Consumer's Counsel for the Agricultural Adjustment Administration, and

we would like to have him ask a few questions, if it is agreeable to you.

MR. MONTAGUE. If I am able to answer them, I shall be very glad to.

MR. MONTGOMERY. I should like to bring Mr. Eastlack back to circulation for a few minutes, and then return to you.

MR. EASTLACK, during the last 3 months of 1938 were the Borden Farm Products Co. and the Reid's Union Dairy Co. in New York City paying the same class 1 prices for milk to the producers?

MR. EASTLACK. They were; yes, sir.

MR. MONTGOMERY. How much difference was there in the prices at which those two companies were selling milk to the grocery stores?

MR. EASTLACK. I haven't got that particular price schedule for that particular period before me. There was a difference between Reid's price and the Borden price to stores at that time.

MR. MONTGOMERY. Was the difference during any part of that period as much as $2\frac{1}{4}$ cents a quart?

MR. EASTLACK. I would rather testify from something definite rather than my memory on that. There was a price schedule in effect.

MR. MONTGOMERY. We had the report that the difference was as much as $2\frac{1}{4}$ cents.

MR. EASTLACK. Will you give me just a minute to set down from memory what the prices were? I want to have it accurately.

During the period, Mr. Montgomery, that you are referring to, the price on Borden milk to stores was $11\frac{1}{2}$ cents, the price of the Reid's milk to stores was $9\frac{3}{4}$ cents.

MR. MONTGOMERY. Those prices were maintained throughout that period to all stores?

MR. EASTLACK. I wouldn't say that they were maintained without deviation. New York City is characterized by rather substantial deviation in prices from announced schedules. As a matter of fact, the price schedule in New York is pretty much like a timetable. It is the time at which trains go, but they don't always go on time.

MR. MONTGOMERY. Prices were moving up and down from day to day?

MR. EASTLACK. That is correct, and mostly down at that time.

MR. MONTGOMERY. Was the price on the Borden milk moving up and down from day to day?

MR. EASTLACK. Not to as great an extent as in the case of the Reid milk.

ADVERTISING AN IMPORTANT FACTOR IN RETAIL MILK PRICE

MR. MONTGOMERY. Can you tell us what difference in retail price in those stores existed between the Borden milk and the Reid's milk?

MR. EASTLACK. No; I can't, Mr. Montgomery. Each storekeeper in New York sells at the price that suits his own convenience, and the storekeepers' prices vary in every block and in every borough.

MR. MONTGOMERY. It is a reasonable assumption, isn't it, that the storekeepers were selling the Borden milk for a higher price than the Reid milk?

MR. EASTLACK. I think that is correct; yes.

MR. MONTGOMERY. Can you tell us why, in your opinion, the consumer would pay a higher price for Borden milk than she paid in the same store or some other store for the Reid milk on the same day?

Mr. EASTLACK. I haven't anything on that.

Mr. MONTGOMERY. Is the Borden milk advertised?

Mr. EASTLACK. Borden's have advertised for 75 years, Mr. Montgomery.

Mr. MONTGOMERY. Is Reid's milk advertised?

Mr. EASTLACK. Not to my knowledge.

Mr. MONTGOMERY. Does the advertisement that Borden's runs on the Borden milk tell the consumer that Reid's milk is backed by the Borden reputation as a Borden Co.?

Mr. EASTLACK. I don't recall ever seeing any advertisements of that character.

Mr. MONTGOMERY. I suppose it is reasonable to conclude that the Borden advertisements would not tell the consumer what you have told us here today, that the Reid's milk is substantially of the same quality as Borden's milk.

Mr. EASTLACK. It is customary in advertising products to point out their virtues, and Borden advertising does just that.

Mr. MONTGOMERY. The consumer would not know, would she, that, as you have testified here today, Reid's milk is substantially of the same quality as the Borden milk?

Mr. EASTLACK. The consumer in the city of New York knows from many repeated statements by the Health Commissioner of New York City that all milk sold in the city of New York meets the regulations of the city, and it is his business to see that it does.

Mr. MONTGOMERY. Does your testimony indicate that all milk sold as grade B is of the same quality?

Mr. EASTLACK. We think ours is better.

Mr. MONTGOMERY. Which is better?

Mr. EASTLACK. Both.

Mr. MONTGOMERY. You still haven't made it very convincing why the consumer would pay more for it.

Mr. EASTLACK. I don't pretend to know the minds of 11,500,000 consumers, a great many of whom have been good enough to lend their patronage to The Borden Co.

Mr. MONTGOMERY. But you do agree the Borden milk is advertised and Reid's is not, and people pay more for Borden milk, and they are substantially of the same quality.

Mr. EASTLACK. I see no objection to that statement.

Mr. MONTGOMERY. Mr. Montague, in the light of that answer, would you be willing to amend your statement that the retail prices of milk are determined almost entirely by the price paid to the producer and the cost of labor in moving the milk? Isn't advertising another important factor in determining how much people pay for milk?

Mr. MONTAGUE. Well, I think that has to be interpreted with a difference in the type of service. Advertising is a cost, but it is no such cost as that.

Mr. MONTGOMERY. Is there any difference in the services to the consumer in the Borden bottle of milk and the Reid's bottle of milk they buy in the same store?

Mr. MONTAGUE. There is to the store. As Mr. Eastlack, I think, testified, if I recall his testimony, the Reid's bottle is very largely sold off wholesale routes where a driver getting the same wage may deliver 150 cases a day, whereas Borden's milk is sold largely off

retail routes that may be only sell 30 cases a day. There is a very large difference in the unit cost.

Mr. EASTLACK. That is correct.

Mr. MONTGOMERY. Speaking for the moment only of the Borden and Reid's milk that is sold through the store, the conclusion seems to be justified, does it not, that the Reid's milk is sold competitively and the Borden milk is sold by advertising.

Mr. MONTAGUE. I wouldn't say that.

Mr. MONTGOMERY. Have you any explanation of why the consumer will pay more for the Borden than the Reid's milk?

The CHAIRMAN. Perhaps the Reid company doesn't have any contented cows!

Mr. MONTAGUE. I have none for that.

Mr. MONTGOMERY. Mr. Montague, you said consumers wherever the Borden Co. does business have their choice as to whether they want to buy milk with the full service, delivered at home, or whether they want to buy it through the store. Is the Borden milk, wherever it is sold through stores, sold through a lower delivered price than the home delivered price in the same city?

Mr. MONTAGUE. I would say that is generally true.

Mr. MONTGOMERY. Would you know in how many markets that is true, where you operate?

Mr. MONTAGUE. I wouldn't attempt to guess.

Mr. MONTGOMERY. Do you know of any markets where it is not true, where you operate?

Mr. MONTAGUE. It didn't used to be true in Milwaukee. Whether it is now or not, I don't know. The price was controlled by the State. Whether it is true in other places I don't know.

The CHAIRMAN. You mean the State control board required the dealer to sell the milk at the same price in the store as at home?

Mr. MONTAGUE. That is right.

Mr. MONTGOMERY. Where that is the case, has any representative of The Borden Co. in any instance you know of appeared before such a State control board and objected to such a requirement?

Mr. MONTAGUE. Not that I know of.

Mr. MONTGOMERY. You don't know of any case where it was protested, the requirement that you charge as much at the store as at home?

Mr. MONTAGUE. Mr. Eastlack tells me he testified before the New Jersey Control Board on the 20th of April on that question.

Mr. MONTGOMERY. Is it, then, the policy of the Borden Co. to testify in favor of a store differential in the cities where you operate?

Mr. MONTAGUE. I would think so.

Mr. MONTGOMERY. Do you know what you are charging for milk delivered to the homes in Kansas City, Mo., at the present time?

Mr. MONTAGUE. No; I don't.

Mr. MONTGOMERY. Do you know what the store price is at that place?

Mr. MONTAGUE. No.

Mr. MONTGOMERY. Do you know what the facts are in Columbus, Ohio?

Mr. MONTAGUE. No.

Mr. MONTGOMERY. In both of those cities the April report of the Bureau of Agricultural Economics reports store prices at as high a

level as the delivered prices, although they also report that some people are selling at store prices of 1 cent less. Would you be able to find out whether your company is one that is selling at 1 cent less in the stores?

Mr. MONTAGUE. I could find out very easily.

EFFORTS TO INCREASE CONSUMPTION THROUGH DISCOUNT POLICY IN HOME DELIVERY

Mr. MONTGOMERY. You said you were selling to consumers or experimenting with the sale of milk in 2-quart jugs. Is that through stores or on the wagon?

Mr. MONTAGUE. It is off routes.

Mr. MONTGOMERY. How much saving to the consumer per quart is there on the 2-quart container?

Mr. MONTAGUE. I can't tell you, because researches haven't gone far enough to determine it.

Mr. MONTGOMERY. I am asking you how much saving there is to the consumer buying from you.

Mr. MONTAGUE. At the present time in the experimentation?

Mr. MONTGOMERY. Yes.

Mr. MONTAGUE. I think it is 2 cents.

Mr. MONTGOMERY. Two cents a quart less?

Mr. MONTAGUE. I think that is it, but that is purely an experimental research, Mr. Montgomery. We have no economic facts which might lead us to the conclusion that that could be ultimately justified.

Mr. MONTGOMERY. May I ask whether in any markets you give a quantity discount on deliveries to the home, to the customer who buys 2, 3, or 4 quarts a day?

Mr. MONTAGUE. I don't know of any now.

Mr. MONTGOMERY. Would it be your opinion that this labor cost, which you say is a controlling factor, would be less per quart when the driver leaves 3 or 4 quarts than when he leaves only 1?

Mr. MONTAGUE. Of course, that is really our hope with the 2-quart container—that we cannot only get people to use more, but that we can get the driver to deliver more, thereby reducing the unit cost.

Mr. MONTGOMERY. Isn't there a reduction in cost now when he leaves three or four quart bottles instead of one quart bottle at the home?

Mr. MONTAGUE. I think theoretically that might be argued, Mr. Montgomery. I have never seen any definite figures on it.

Mr. MONTGOMERY. You are not making any experiment along that line, as to the possibilities of increasing the consumption of milk?

Mr. MONTAGUE. We are doing precisely that in this 2-quart package.

Mr. MONTGOMERY. That is the only experiment of that type; not a quantity discount on quarts delivered? You said your company controls less than 5 percent of the total milk produced in the country, and I think you gave the percentage of milk you control in the New York market as about 24 or 25 percent.

Mr. MONTAGUE. As I recall, it was 24.

PERCENTAGE OF MILK AND DAIRY PRODUCTS CONTROLLED BY TWO MAJOR DISTRIBUTORS

Mr. MONTGOMERY. What percentage of the home-delivered milk in New York City is handled through the Borden companies?

Mr. MONTAGUE. That I can't tell you.

Mr. MONTGOMERY. Do you know what percentage is handled by the Borden and National Dairy Cos. combined on home-delivered milk in New York City?

Mr. MONTAGUE. I have no accurate figures on that. I think any figures would be pretty largely a guess, because of the large number of peddlers in New York. There must be 800 or a thousand at the last estimate, all of which have retail delivery.

Mr. MONTGOMERY. Have you seen Attorney General Bennett's report, which states 76 percent of the home-delivered milk is controlled by your company?

Mr. MONTAGUE. Yes; but I think he wholly disregarded the peddlers.

Mr. EASTLACK. He did not say 76 percent was controlled or distributed by The Borden Co.

Mr. MONTGOMERY. The Borden and National Dairy Corp.

Mr. MONTAGUE. He entirely disregarded, as I recall it, all of these thousand routes that are independently run.

Mr. MONTGOMERY. It has been testified before this committee that your company has 65 percent of the business in Madison, Wis. Is that figure correct?

Mr. MONTAGUE. I think it is not presently correct.

Mr. MONTGOMERY. What is the percentage, Mr. Montague?

Mr. MONTAGUE. As near as we can determine it, it is about 44, from the last available figures.

Mr. MONTGOMERY. What proportion of the total cheese production in the United States is handled through the Borden companies?

Mr. MONTAGUE. I don't know. I don't know what the total cheese production in the United States is.

Mr. MONTGOMERY. Mr. Montague, you bring the figure here that you handle only 5 percent of the total milk in order to support your contention that you aren't a monopoly or monopolistic, but don't have the knowledge of how much cheese you control.

Mr. MONTAGUE. Well, Mr. Montgomery, as far as I know, the Government report on total milk production is represented in those figures. I don't think it is broken down, is it? We took just the total. It would be a very simple thing to figure what our proportion of cheese is. It is not a substantial figure.

Mr. MONTGOMERY. Do you know what percentage of the ice cream?

Mr. MONTAGUE. No; I don't.

Mr. MONTGOMERY. Do you know what percentage of the ice-cream business you have in any particular market?

Mr. MONTAGUE. Well, they say—I have heard statements that we have had 20 percent of the ice-cream business in New York City, but I don't know that to be a fact.

Mr. MONTGOMERY. While we are on the subject of ice cream, you stated that products manufactured from surplus milk, coming from the fluid milkshed, yield no profit. Is that literally true of ice cream?

Mr. MONTAGUE. No; it is not true of ice cream. What I mean there is, we could buy our requirements for ice cream entirely independent of any fluid-milk situation and buy them cheaper or just as cheap—in my judgment, cheaper—than we get them through being associated with the fluid-milk company.

Mr. MONTGOMERY. Mr. Montague, the Consumers' Union in New York, in May 1936, published reports of tests that it made of 57 samples of grade A and grade B milk of the Borden and the National Dairy Cos. in New York City. Are you familiar with that report?

Mr. MONTAGUE. No, sir; I have never seen it.

Mr. MONTGOMERY. The report stated with respect to Borden grade A milk that the average butterfat content of the sample selected was 3.7 percent, and of the Borden grade B milk tested 3.5 percent; that the bacteria count of both grades of milk was very low and better than the requirement, and that the difference in retail was 3 cents a quart. Do you have any reason to dispute the findings of that organization?

Mr. MONTAGUE. Are they both pasteurized milk?

Mr. MONTGOMERY. Yes.

Mr. MONTAGUE. Well, I don't know whether the figures were taken reliably or not, Mr. Montgomery; not ever having seen that report, it is pretty hard to identify it as being a correct one.

Mr. MONTGOMERY. You wouldn't be prepared to say they were incorrect.

Mr. MONTAGUE. I wouldn't be prepared to say they were correct or incorrect.

Mr. MONTGOMERY. You have referred several times to the small size of the profits per quart received by your stockholders. Are you able to advise the committee what has been in recent years the rate of earnings on the investments in your companies and how much appreciation of assets above cost is included in that investment?

Mr. MONTAGUE. Well, now as to the investment, Mr. Montgomery. I can't tell you a historical cost of our balance sheet. I do know this: In 1935, I think, or '34, we made an appraisal of our properties then in use and wrote off against a capital surplus created. I think it was, \$23,000,000 out of our plant accounts, so as to be extremely certain that our present plant valuations were in no way whatsoever enlarged by the period of '20 to '29. Does that answer your question?

Mr. MONTGOMERY. No; I was interested in what is the rate of return on your investment less depreciation.

Mr. MONTAGUE. Well, let's see. We made last year \$6,600,000, which included nearly one-half a million dollars from income from investments. I also included a very substantial earning in foreign countries, where our asset valuation is very low. Our total assets at the end of last year were \$122,000,000, with goodwill, patents, and all figured at \$1; so, including the return on investments, the return in foreign countries, which was very substantial, the return was in that relationship of \$6,600,000 to \$122,000,000.

Mr. MONTGOMERY. You have testified as to the increase in the number of pasteurizing plants in various markets. Isn't it possible that the increase in competitors in the markets where you operate indicates an attractive profit opportunity to people?

Mr. MONTAGUE. Well, I think it has indicated this—that where people could go in and buy under the class 1 price the profits were very attractive. They were very attractive, no question about that. To anybody who could go in and buy at very much less than the class 1 price, they were very attractive.

Mr. MONTGOMERY. You said that only companies that did not pay the classified price are irresponsible companies.

Mr. MONTAGUE. I didn't use the word "irresponsible."

Mr. MONTGOMERY. I think you referred to people doing that as "irresponsible."

Mr. MONTAGUE. Did I?

Mr. MONTGOMERY. Well, nevertheless, in addition to the cases referred to by Mr. Ballinger in his question, there are reports in the Federal Trade Commission's publications of instances in which large companies, it says, were not paying the classified price on the Connecticut market. Now, as I understand it, the employees of the Federal Trade Commission are prohibited by law from identifying the companies referred to in that Connecticut report, but I don't think you would be prohibited from identifying them if one of the companies is yours. Do you know if one of the companies referred to in here is The Borden Co.?

Mr. MONTAGUE. I said to Mr. Ballinger I haven't read the report he referred to.

Mr. MONTGOMERY. It was published in 1936.

Mr. MONTAGUE. That is, I have no recollection of it.

The CHAIRMAN. Are there any other questions?

I am sorry; I have to go to the Senate. That last buzz was a summons to vote.

(Mr. Ferguson assumed the Chair.)

Mr. O'CONNELL. Mr. Montague, I should like to ask one question which was occasioned by my reading the latter portion of your brief. It may have been covered before, but if so, I didn't understand it. That is, the portion of your conclusion which feels that one of the most important things to be done in the industry is to establish and maintain a sound relation between the price paid to the farmer for milk which is used for fluid consumption and the price paid for milk used in manufacture.

Would it be fair to say it is your belief that a complete absence of either State or Federal legislation plus a reduction in, let us say, the bargaining power of the producers' organizations, would enable The Borden Co. and other distributors to bring about the sound relationship to which you referred?

Mr. MONTAGUE. It is very difficult for me to get that question. You ask me if all the present controls that are in are eliminated—and what was the rest of it?

Mr. O'CONNELL. As I read your report or your conclusion, it seemed to me it was your opinion that in the elimination of governmental control or price fixing, either State or Federal, plus the elimination of the abuse of the power of collective bargaining of cooperatives and other producer organizations, would enable the distributors, Borden's and other companies, to bring about the sound relationship to which you refer?

Mr. MONTAGUE. Well, I think a sounder relationship would naturally occur if the artificial factors, all the artificial factors—

Mr. O'CONNELL (interposing). But I gather those were the two artificial factors that you seem to think, if eliminated, would bring about it.

Mr. MONTAGUE. The abuses of those two factors are the things to which I refer.

Mr. O'CONNELL. But at least you would have a complete elimination of all governmental price fixing, either State or Federal, because I take it you say there is no positive justification for governmental price fixing, so you would eliminate governmental price fixing.

Mr. MONTAGUE. I say there wouldn't be any reason for it if that was done, if these other factors were taken care of.

Mr. O'CONNELL. But the other factor to which you refer is the abuse of power by producers' organizations. Wouldn't it be fair to say that that would be eliminated by the reduction in power?

Mr. MONTAGUE. That isn't what I am getting at there entirely; it is when you have such a high-class price, regardless of how it is secured, the impossibility of enforcement of that high-class price just tends to tear the whole situation down. Now, if the class price is more in relationship, there is just that much less far to go when you get down to the manufacturing levels.

Mr. O'CONNELL. But the relationship that you want to bring about must be brought about by virtue of some sort of a bargaining between the producers and the distributors. Isn't that so? In the absence of any governmental—

Mr. MONTAGUE (interposing). I think it would come by bargaining.

Mr. O'CONNELL. So wouldn't it be fair to say that the establishment and maintenance of the sound relationship which you are talking of but which apparently does not exist today could be brought about in your opinion if the bargaining power of the producers was reduced?

I mean, I take it that the sound relationship does not exist and that you feel in the absence of any Government control that the producers or the distributors could bring about that sound relationship to which you refer, if the bargaining power of the producers was restricted or reduced.

Mr. MONTAGUE. Yes; if the producers recognized it. I think eventually they would. I think the producers over a long period of time could be educated to recognize the fallacy of such a high class 1 price. As a matter of fact, I think there are some farm leaders right at the present time advocating that very thing.

Mr. O'CONNELL. I see. And you think that if that proper and sound relationship were brought about it would result in a reduction in the price of fluid milk to the consumer?

Mr. MONTAGUE. I think it would result in a reduction in the price to the consumer and I think there wouldn't be this excessive high class 1 price.

Mr. O'CONNELL. You start with eliminating the high class 1 price.

Mr. MONTAGUE. You go right back to the point I tried to make that the price of milk is so largely dependent upon two things, the price that the farmer gets and the labor; that naturally, if the price of fluid milk goes down, the price to the consumer is going to go down.

Mr. O'CONNELL. Yes; well, now the final analysis in the absence of Government control as to excessive labor costs or price fixing, it is essentially a matter of bargaining between the producers and the distributors and you feel that with the elimination of these abuses to which you refer, one of which would be Government price fixing, that you would be enabled to better bargain both with producers and labor.

Mr. MONTAGUE. Under Government price fixing we don't have any bargaining power at all.

Mr. O'CONNELL. I am assuming—I am going along with your idea of eliminating the Government, of not having Government price fixing. I am trying to see how, if I understand you correctly, you believe this thing would work out, if it were followed out along the lines of your conclusions. I had a little difficulty in seeing just how it would work. You don't believe we should have Government prices. You believe the power of producers' cooperatives, and so forth, is too great; you think the power of labor unions is too great, so it must be that you believe that by a restriction in those two powers the distributors would be enabled to bring about the sound relationship between the price of fluid milk to the producer and—

Mr. MONTAGUE (interposing). I think the very competitive conditions in the market would bring it about.

Mr. O'CONNELL. But you have competitive conditions in the market now, do you not?

Mr. MONTAGUE. I say the abuse of these two things, not the power of them but the abuse of these two things, is what has caused present high prices.

Mr. O'CONNELL. Yes.

Mr. MONTAGUE. I think it naturally follows that, without the exercise of what in my judgment is that abuse, the prices would be lower. I think that necessarily follows.

Mr. O'CONNELL. How do you think the abuses should be removed; by a slow process of education?

Mr. MONTAGUE. I think the force of public opinion is a pretty potent factor.

Mr. O'CONNELL. It hasn't operated yet, I take it.

Mr. MONTAGUE. That is right.

Mr. O'CONNELL. But you think it will.

Mr. MONTAGUE. I can be hopeful.

Mr. O'CONNELL. I take it that is your solution.

Mr. MONTAGUE. As I tried to point out to Senator O'Mahoney, Government price control has so far been quite ineffective, and there has been so much abuse of it.

Mr. O'CONNELL. Don't misunderstand me; I was not attempting to argue with price fixing. I was trying to find out what you were in favor of. My general impression was that we hadn't had a very great deal of experience in Government price fixing.

Mr. MONTAGUE. We have had 5 years of experience. We have been through a period of trial and error, perhaps.

Mr. O'CONNELL. My impression is most of that period was pretty much a period of litigation rather than price fixing.

Mr. MONTAGUE. That is quite correct.

Mr. O'CONNELL. I mean if we hadn't had that we might have a better record upon which to determine whether it would be a success.

Mr. MONTAGUE. That might be true, but when there is a great incentive, when you have that great incentive to do those things, you are bound to have those legal troubles, I think.

Mr. O'CONNELL. Yes; that is a little more theoretical than would be the fact if we had 5 years of actual experience. Isn't that also true?

Mr. MONTAGUE. I presume if all the legal elements had been already adjudicated, that undoubtedly our experience would be more clarified than it is at the present time.

Mr. O'CONNELL. Why do you suppose the pressure came about which resulted in the experiments that we have had in Government price fixing? Was the situation worse before the 5-year period that you speak of?

Mr. MONTAGUE. The situation was very bad. I don't know that they would have gotten any worse. That is a pure guess on my part. I think the emotion at the moment brings on those things to people in desperation; or prices sink so low that they turn to these things, which don't prove to be quite as effective as they originally hoped they would be.

Mr. O'CONNELL. You probably think that we would be as well or better off had those experiments not taken place? The situation would naturally have readjusted itself, you believe? I mean I take it the situation was very bad.

Mr. MONTAGUE. Yes; that would be mere conjecture on my part; it would be just guessing whether it would or wouldn't.

Mr. O'CONNELL. What you are substantially proposing is to go back and see.

Mr. MONTAGUE. Substantially that. I can't get away from this fundamental thing that I have in my mind, that these prices have been too high, the relationship between them—maybe not that the prices have been too high but that the difference has been too great. In other words, we have tried to make class 1 prices stay at the same level, or very near the same level, maybe not exactly, as maybe what butter was in '28 or '29 at the height of an industrial prosperity. It is the relationship I am talking about, not the price.

Mr. O'CONNELL. I was just trying to clarify in my own mind how we were going to bring about or how you are going to bring about the proper relationship.

Mr. MONTAGUE. I don't think we would have any trouble with the class 1 price of \$2.45—I don't think it would have brought the difficulties, a class price of \$2.45 in New York, if the price of butter had been 45 cents a pound.

Mr. O'CONNELL. You wouldn't think that rather than attempt to reduce the class 1 price to bring it more in line with the class 2 price that it might have been advisable to consider raising the class 2 price. You can't do that?

Mr. MONTAGUE. If you could raise the whole dairy level—butter and all dairy product prices—where that would create that proper relationship, why that is just exactly what, in my judgment, you had existing 10 years ago; you did have a better relationship. I prefer to talk about relationship instead of abstract price of class 1 and the price of butter.

Mr. O'CONNELL. If we go back to the conditions of 5 or 10 years ago and some way or other achieve the sound relationship that you speak of, would it in all probability be as a result of a substantial reduction in the class 1 price or an increase in the class 2 price, or both?

Mr. MONTAGUE. I think temporarily while you have this tremendous dairy production in the whole United States, that it would probably be lowering of the class 1 price.

Mr. O'CONNELL. I take it there is no sign of diminution of the tremendous amount of milk.

Mr. MONTAGUE. If you have such a demand in this country for butter or cheese that it would produce a 45-cent price, I don't think you would have very much trouble with those prices. That is the relationship that I am talking about there.

Mr. O'CONNELL. Thank you very much.

Mr. MONTAGUE. I don't know whether I have gotten it across.

(Senator O'Mahoney resumed the chair.)

Dr. HOWE. Mr. Montague, you keep very accurate accounting systems in your plant, do you not?

Mr. MONTAGUE. I presume we do.

Dr. HOWE. You have the cost of product ready for delivery?

Mr. MONTAGUE. No; I don't think we keep any cost, do we, Joe, as to a unit? We keep costs on a hundred pounds, or things of that kind.

Dr. HOWE. Let's have any kind of a unit that you want. You probably read the testimony of Mr. Johnson as to his plant cost in Detroit. Are the plants of the Borden as efficient or less efficient than that of Mr. Johnson, would you say? Mr. Johnson said it was a cent a quart, didn't he?

Mr. MONTAGUE. He said his production-plant cost with $4\frac{1}{2}$ million quarts was half a cent a quart.

Dr. HOWE. I don't know what he included in that plant cost.

Mr. MONTAGUE. He included all of his plant cost, ready to put them into the store—that is, receiving, heating, cooling, bottling—not including the cost of the bottle. Different classifications of cost, Dr. Howe, are different with different companies. I think that is a lower cost than generally can be done.

Dr. HOWE. How much lower?

Mr. EASTLACK. I am not quite sure the cost is indicated. What is the figure indicated?

Dr. HOWE. Half a cent a quart.

Mr. EASTLACK. As a total cost of plant operations?

Dr. HOWE. Total cost of pasteurization and bottling, but not including the bottle cost.

Mr. EASTLACK. Including the receiving of milk from farmers?

Dr. HOWE. We are taking the farmer's price, let's say, at 6 cents, delivered at the platform. After that there is a cost between that platform and the second platform. What is that cost?

Mr. EASTLACK. Well, it would make a great deal of difference, Dr. Howe, as to how this market is organized.

Dr. HOWE. Would you say that Mr. Johnson's quoted cost was high or low?

Mr. EASTLACK. It would depend on what type of operation Mr. Johnson has.

Dr. HOWE. Exclusively pasteurization?

Mr. EASTLACK. Well, if it covers only the cost of pasteurization, it is tremendously high.

Dr. HOWE. A half cent a quart is tremendously high?

Mr. EASTLACK. For the cost of pasteurization.

Dr. HOWE. And putting it into the bottle?

Mr. EASTLACK. That is another item.

Dr. HOWE. Putting it in the bottle on the wholesale platform. Is a half-cent enough?

Mr. EASTLACK. I have never been in Detroit but once and that was a long time before he was in operation.

Dr. HOWE. How about your own plant; how does the cost run?

Mr. EASTLACK. We have plants, city plants, and every plant is a different operation; it receives its milk in a different way; it has a different volume; all those things make or have a tremendous effect on cost. In New York City we have plants that operate for as little as half a cent or less than a cent; we have other plants that operate at a higher cost.

Dr. HOWE. But they all operate proximately under a cent a quart.

Mr. EASTLACK. I would think any city-plant operation is under a cent a quart.

Dr. HOWE. The New York State reports of 1934 covering, I think, 84,000,000 quarts of milk, show that the cost was 8 mills a quart.

Mr. EASTLACK. As an average that might be—I would be inclined to think it would be quite comparable.

Dr. HOWE. So that exclusive of the cost of a bottle you can lay milk on the platform ready to be taken away by buyers at the cost of the farmer, which is, say, 6, plus from a half a cent to 1 cent, making a total of from 6½ to 7 cents wholesale price for milk?

Mr. EASTLACK. Well, if I follow your statement correctly, Dr. Howe, you are presupposing that milk is delivered to a city plant at a net cost of 6 cents per quart?

Dr. HOWE. Correct.

Mr. EASTLACK. And that the cost of operating that plant and putting the milk in cases on the platform available for trucks to haul away would not be in excess of a cent and a half above that?

Dr. HOWE. A cent.

Mr. EASTLACK. For most plants with reasonable volume I think that is practical.

Dr. HOWE. So that in the high milksheds where you pay the maximum for milk, that is, 6 cents a quart, milk ought to be available to buyers at 7 cents a quart?

Mr. EASTLACK. If they want to carry it away in truckloads and cases; yes, sir.

Dr. HOWE. Is there any reason why in a free competitive country people should not be permitted to come to a wholesale plant and buy milk for 7 cents or 6 cents a quart, and distribute it in any way they see fit, or consume it in any way they see fit?

Mr. EASTLACK. I haven't stated at any time that if anybody wanted to operate that way I had any objection to it.

Dr. HOWE. Will The Borden Co. sell milk at wholesale to any buyer or to a relief administration at 7 cents a quart or 6 cents a quart, whatever the farm price, plus the pasteurization costs?

Mr. EASTLACK. I haven't at any time known of any customers that sought to buy milk of us in that way and therefore—

Dr. HOWE. Supposing the relief administration came to you in New York as a very large buyer of milk and could save possibly millions of dollars a year, if it bought at wholesale, what would you sell it to them for?

Mr. EASTLACK. We would entertain a request from anybody that is ready to buy a million quarts of milk delivered at the plant at 1 cent a quart above the cost of raw milk delivered.

Dr. HOWE. You will. Up to January 1 last the retail price in New York of class A milk was 16½ cents a quart, was it not?

Mr. EASTLACK. Well, I presume, Dr. Howe, you are referring to grade A milk.

Dr. HOWE. Grade A milk.

Mr. EASTLACK. There are terms in the milk business we had better try to keep straight.

Dr. HOWE. Grade A milk.

Mr. EASTLACK. Sixteen and three-quarters.

Dr. HOWE. Assuming milk can be produced at wholesale for 7 cents there was a spread in there of not quite 10 cents between the wholesale production cost and the ultimate price which the consumer paid.

Mr. EASTLACK. I can't agree to your assumption, Dr. Howe. You are talking about grade A milk?

Dr. HOWE. Grade A milk; yes, sir.

Mr. EASTLACK. Grade A milk carries a further cost in connection with the method by which it is bought from the farms of about 2½ cents a quart.

Dr. HOWE. But don't pay more than 6 cents base per grade A milk?

Mr. EASTLACK. I don't know what we paid at that time.

Dr. HOWE. It was \$2.46, I believe. Now we were talking this morning to Mr. Montague.

Mr. EASTLACK. Dr. Howe, that was not the cost of grade A milk, \$2.45 a hundred was a class 1 price to which were added substantial premiums for grade A milk, both for butterfat and bacteria count.

Dr. HOWE. Well we just had some testimony as to the slight difference between grade A and grade B milk. It was almost negligible.

Mr. EASTLACK. Well, of course, perhaps we had better explore the difference between grade A and grade B milk before we can make any broad assumption.

Dr. HOWE. It is grade A milk that is delivered in bottles at 16¾ cents and there is a spread in there nearly of 10 cents. Mr. Montague says that the excess cost of milk to the consumer is the farmer's price and the weighing price. That being true, and in view of Mr. Montague's statement that he desires to deliver as much milk and sell as much milk as possible, isn't the thing to do to deliver milk at wholesale plus a reasonable profit, not a tenth of a cent a quart, but take a half a cent a quart, deliver as much milk as possible to your stores, your merchants, for 7 cents plus a reasonable profit and let them distribute it in any way they see fit?

Mr. EASTLACK. Well, we deliver about 45 percent of the milk that we sell in New York City to stores.

Dr. HOWE. But you don't sell it at that price?

Mr. EASTLACK. We sell it at as low a price as we can sell it and cover cost of operation.

Dr. HOWE. And so far as you can do so you require stores to sell at the same price across the counter that you sell the same milk on wagons?

Mr. EASTLACK. Well, Dr. Howe, have you been in New York City recently?

Dr. HOWE. In a country-wide way that is true, is it not?

Mr. EASTLACK. Certainly not true of New York City.

Dr. HOWE. That was true up to the time of the break in the Federal-State agreement?

Mr. EASTLACK. It certainly was not. Milk was being sold to the public from stores in the city of New York as low as 7½ and 8 cents a quart at the time of the retail price.

Dr. HOWE. For how long a period?

Mr. EASTLACK. Well, my memory is not quite as long as it might be, but ever since I can remember.

Dr. HOWE. Well, as a general thing in a country-wide way, if the statement of Mr. Montague is to be taken at its worth, why wouldn't it be good business from every point of view to pay the farmer this adequate price, make a reasonable charge for your heating and cooling of the milk and permit distribution to take any form it saw fit, just as other commodities find their own outlets through a great many different channels?

Mr. EASTLACK. That is exactly what we are for, Dr. Howe. We will sell milk in paper bags, rubber bags, in any way it can be given to the consumer in good quality and through whatever channels the consumer wants it.

Dr. HOWE. Except that you insist on fixing the price?

Mr. EASTLACK. Well, customarily when anybody sells, whether it be bananas or peas or popcorn or milk; the seller is a part of the process of fixing the price. We don't propose the seller has nothing to say about the price at which his product is sold.

Dr. HOWE. No, I don't; but under competitive conditions, competition fixes that price?

Mr. EASTLACK. That is right.

Dr. HOWE. In New York City 90 percent of the milk, according to the attorney general, is controlled by your company, by the National Dairy Products, and four other corporations, which make it relatively easy to fix the price?

Mr. EASTLACK. Unfortunately the attorney general of the State of New York is not here at the moment, but if he made any such statement he was misinformed.

The CHAIRMAN. Are there any other questions? Mr. Montague, do you care to make any further statement?

Mr. MONTAGUE. No, Senator; I think I have completed my presentation.

The CHAIRMAN. Mr. Eastlack, do you care to add anything to what has been said?

Mr. EASTLACK. I would like the record to show the attorney general did not say Borden and National Dairy Products controlled 90 percent of the milk products in New York City retail only, and those figures fail to take into account that the complete facts of the market—

Dr. HOWE. It was a report to the Governor of New York, a very lengthy report.

Mr. EASTLACK. There are at least a thousand peddler routes in New York City that were never included in Attorney Bennett's survey, and

they all peddle milk from house to house and are therefore door-to-door delivery.

The CHAIRMAN. Any other statement? We are sorry to have kept you here so late, gentlemen, but we desired to finish your statement or testimony this afternoon. And we are very grateful for your presentation and thank you for your patience with the committee and the staff.

The committee will stand in recess until tomorrow morning at 10 o'clock, when Mr. McInnerney¹ will be good enough to take the stand.

(Whereupon at 5:58 p. m. an adjournment was taken until 10 a. m. Wednesday.)

¹ President, National Dairy Products Corporation.



INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, MAY 3, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:25 a. m., pursuant to adjournment on Tuesday, May 2, 1939, in the Caucus Room, Senate Office Building, Senator Joseph O'Mahoney, chairman of the committee, presiding.

Present: Senators O'Mahoney (chairman) and King; Representatives Sumners (vice chairman), Reece, and Williams; Messrs. Henderson; Ferguson; O'Connell; and Patterson.

Present also: Willis Ballinger, director of studies and economic adviser to the Federal Trade Commission; G. C. Gamble, chief of T. N. E. C. studies for the Federal Trade Commission; Andrew Tackett and R. A. Putzier, attorney examiners; Wilbur Baughman, attorney, and Kemper Simpson, economist, Federal Trade Commission.

The CHAIRMAN. The committee will please come to order. The secretary of the committee has handed me this morning the text of several questionnaires which have been issued from time to time by the various agencies. It is deemed advisable that they should be filed with the committee records, not for printing, however, and there is also included a memorandum on big business, prepared by the Twentieth Century Fund, the text of which was requested by the committee.

(The questionnaires referred to were marked "Exhibit No. 454"; the memorandum referred to was marked "Exhibit No. 455"; and both are on file with the committee.)

The committee this morning will hear Mr. McInnerney at his request.

The CHAIRMAN. Mr. McInnerney, do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. McINNERNEY. I do.

TESTIMONY OF THOMAS H. McINNERNEY, PRESIDENT, NATIONAL DAIRY PRODUCTS CORPORATION, NEW YORK CITY

Mr. McINNERNEY. Mr. Chairman, it has been my expectation to ask you to allow me to read the statement that we gave you a copy of.

The CHAIRMAN. Inasmuch as that was done yesterday with Mr. Montague—

Mr. McINNERNEY. I would like to offer a copy of the statement for you with your records, if you will accept it, please.

The CHAIRMAN. It will go into the record as you read it.

Mr. McINNERNEY. Now, with reference to that, I have taken that statement, Mr. Chairman, and cut out a good deal of it, but I would like to read from those passages I have marked; and I have here Mr. Bromley, our statistician, or economist, who will explain the charts as I go along. That, it seems to me, will expedite the thing.

CONTRIBUTIONS TO THE DAIRY INDUSTRY CLAIMED BY NATIONAL DAIRY PRODUCTS CORPORATION

Mr. McINNERNEY. Speaking for our company, I am confident that I can demonstrate that there is not and cannot be a monopoly in milk distribution; that the profits in our business are moderate. We are an up to date, progressive salesman of milk, which is the major product of the American farms.

We have developed a confidence in the quality of milk, ice cream, cheese, and other products, which has kept the farmers' income from milk above the level of income from other agricultural products. We have advised with and aided farmers in improving the quality of their milk, thereby increasing their income. We have made fresh, nutritious milk available daily, irrespective of weather conditions, at the doorsteps of the homes of millions of people, thereby increasing the consumption of milk and improving the health of infants and adults alike.

By paying high wages and providing regular employment we have enabled our employees to enjoy a high standard of living. Through developing and maintaining over 100 laboratories we have materially improved the high quality of our product. Our improvements in the technique of manufacturing and packaging cheese are in large measure responsible for the fact that per capita cheese consumption has nearly doubled in this country in the last 25 years.

The success of our Kraft-Phenix Co. in perfecting processed cheeses of superior keeping quality, suitably packaged in convenient containers to meet the desires of the American public, was chiefly responsible for this increase in popularity. Cheese is no longer harnessed to old-fashioned cracker-barrel methods of merchandising; cheese consumption showed practically no decline during the depression of the 30's, and is today at its all-time peak. This growth in the use of cheese and ice cream has increased the market for the farmers' milk production.

The increase in ice cream and cheese consumption since 1925 has provided a market for the production of 1,000,000 additional milk cows. Today cheese is being produced in the deep South, where dairying was scarcely considered practical a few years ago. In the South Central States, for instance, there has been a 23-percent increase in the number of milk cows on farms in the last 10 years, compared with an increase of 13 percent for the rest of the Nation.

This growth in dairying has increased the purchasing power of the southern farms. We have further increased the farmers' milk market by developing through research new commercial uses for milk. For example, we have collaborated with other food industries, notably the baking industry, who have made a greater use of milk in their bread formulas. As a result the loaf of bread the public buys today is of much more nutritive food value than the loaf of 10 years ago.

The CHAIRMAN. Mr. McInnerney, may I interrupt you? The language which is used in these two paragraphs might leave the inference in undiscriminating minds that National Dairy Products Corp. claimed credit for developing a market for the farmers' milk through research and also claimed credit for increased consumption of cheese and ice cream providing a market for the production of a million additional milk cows. Do you mean to give the second inference?

Mr. McINNERNEY. Yes. I don't want to say we alone, but we have done more in developing that consumption of ice cream and cheese than any other company.

The CHAIRMAN. And is it your position that if it had not been for the National Dairy Co. this consumption of cheese and ice cream would not have taken place, this increase?

Mr. McINNERNEY. I don't think I could claim that for National Dairy. That could be applied to the Kraft-Phenix Cheese Co., which is one of our subsidiaries. They started on that road before they became a part of our company.

The CHAIRMAN. Did they cause the increase in consumption or did they take advantage of the increasing demand, the national demand?

Mr. McINNERNEY. I think, Senator, they caused the increased consumption. Really, I believe that that is true.

The CHAIRMAN. Pardon me for interrupting.

Mr. McINNERNEY. We are currently devoting much time, effort, and money in attempting to find wider uses for skim milk and whey. Our promotion of processed skim-milk products for animal feeds is steadily increasing the outlet for the product in this field. We have also helped pave the way for wider use of skim milk and whey derived byproducts in the pharmaceutical, plastic, confectionery, dyeing, leather tanning, paper, paint, and other industrial fields.

We have been able to accomplish these results and still sell our products at low prices to the consumer.

Chart 1 shows the small size of our earnings in relation to sales.

Mr. BROMLEY.¹ This chart, gentlemen, shows the trend of National Dairy's total sales, the top line here; the solid portion of the chart shows our earnings graphically presented in relation to the size of our sales; the lower left-hand portion of the chart shows the number of quarts of milk on the average that the National Dairy had to process and sell in the form of fluid milk and butter, cheese, evaporated milk, and other forms of dairy products to make a dollar of profit.

Our profit is somewhat overstated in this chart, as we have divided our aggregate net profit by the total amount of milk equivalent, which we have sold in one form or another.

The significant part of the thing is the trend in our profits per quart of milk equivalent. The lower left-hand or right-hand corner of the chart shows the relationship of our profits per dollar of sales, 7 cents in 1930, at the current time about 3½ cents—3.4 cents.

Mr. McINNERNEY. I offer this, Mr. Chairman, as a copy of the chart.

(The chart referred to was marked "Exhibit No. 456" and is included in the appendix on p. 3260.)

The CHAIRMAN. It may be received.

¹ Mr. O. B. Bromley, economist for National Dairy Products Corporation, described the charts presented by Mr. McInnerney during his testimony.

Mr. McINNERNEY. The large volume of our business permits us to offer it at a very low margin of profit. For instance, as chart 2¹ shows, if a person were to buy all the milk, cream, ice-cream, cheese, butter, and canned milk he uses in an entire year from us, we would make less than 75 cents, one-fifth of a cent per day, on his entire annual consumption of dairy products.

Mr. BROMLEY. The top portion of the chart, gentlemen, is representative of the amount of milk and dairy products the average consumer in the United States eats in a year, in accordance with the estimates of the Department of Agriculture. Were a consumer to purchase all of these products from subsidiaries of the National Dairy, our profit on his purchases would be about 75 cents a year. These purchases are 152 quarts of milk, 17 cans of evaporated milk, 17 pounds of butter, 5¾ pounds of cheese, and 65 servings of ice cream. Those are the approximate amounts that are consumed.

The lower portion of the chart shows what our profits would be per cow were National Dairy divisions to buy, process, and sell this cow's production in accordance with the average usage of milk in this country. Profit comes to about \$4.50 a year, or 11½ cents per day.

The CHAIRMAN. Isn't the significance of that chart simply that by obtaining a large volume of business—a large turn-over—you may be content with a very small profit? Naturally, if you multiply a half a cent or a quarter of a cent by enough customers, you are bound to have a large profit. Does it answer the question as to what advantage the consumer might have if, instead of a few large organizations handling a very large proportion of the milk business, we had a large number of smaller organizations handling the same business?

Mr. McINNERNEY. Well, this chart seems to me to prove that, notwithstanding our size, or because of our size, we are able to do a business at a very low margin of profit.

The CHAIRMAN. I think it establishes that. You are content to do your business at a very small margin of profit, but it does not prove that the costs of your business are as low as they might be.

Mr. McINNERNEY. We will come to that.

The CHAIRMAN. All right.

Mr. McINNERNEY. I think you are quite right. It may be that our costs are too high, or if they weren't so high we would make a little more money.

The CHAIRMAN. And if your costs weren't so high perhaps milk would be cheaper to the consumer.

Mr. McINNERNEY. After all, it has to stand the tariff, whatever it is.

Mr. Chairman, I offer this chart.

(The chart referred to was marked "Exhibit No. 457" and is included in the appendix on p. 3261.)

Mr. McINNERNEY. Neither has National Dairy's research and product improvement been carried on at the expense of the farmer. Our profits in 1938 amounted to only 11½ cents per day, per cow, as set forth in chart 2. This is certainly a small return for the services we perform. National Dairy companies pay as high prices for milk as are paid in any of the markets in which we operate.

¹ Referring to "Exhibit No. 457."

Our field men and veterinarians constantly assist our farmers to produce better quality milk. Many of our companies pay premiums for better than average quality. Sheffield Farms Co., New York, alone employs 20 field men and veterinarians, and last year paid its farmers over \$1,100,000 in quality premiums.

National Dairy has always paid one of the highest annual wages prevailing in any industry. We have also given our employees a greater than average measure of job security and continuous employment. Our record, set forth in chart 3, shows these facts clearly. Our employees have good working conditions; practically all enjoy vacations with pay and group sickness, accident, and life insurance. Our safety program has reduced auto and plant accidents materially.

NATIONAL DAIRY'S WAGE AND EMPLOYMENT RECORD

Mr. BROMLEY. The chart, gentlemen, contrasts the average wage paid by all of National Dairy divisions with the average wage received by employees in 25 other industries of the country. The top line indicates National Dairies' average wage; the dotted line, that of the 25 other industries. The difference in favor of National Dairies' wage—that is, National Dairies' wage has exceeded this other average by, I think, from around \$6 a week to \$12 or \$14 a week, varying depending on the year.

The CHAIRMAN. What are these other major industries, Mr. McInnerney?

Mr. MCINNERNEY. Well, we have the chart there showing what they are.

Mr. BROMLEY. May I read them, Mr. Chairman?

The CHAIRMAN. I will be glad to have you do that.

Mr. BROMLEY. Agricultural implement, automobile, boot and shoe, chemical, cotton (North), electrical manufacturing, furniture, hosiery and knit goods, iron and steel, silk, wool, foundries, machine and machine tools, leather tanning and finishing, lumber and millwork, meat packing, paint and varnish, paper and pulp, paper products, printing (book, job, news, and magazine), rubber, heavy equipment, hardware and small parts, other foundry and machine products.

The CHAIRMAN. The 25 other major industries column; is that an average?

Mr. BROMLEY. That is arithmetical average for all of those industries, Mr. Chairman.

The CHAIRMAN. So that the chart doesn't really indicate that the National Dairy Products Corporation wages are the highest wages paid by the 25 industries.

Mr. BROMLEY. We are not trying to establish that fact. We are merely comparing our wage with the average wage of these other industries.

The CHAIRMAN. That wasn't stated.

Mr. BROMLEY. It should be stated.

Senator KING. He stated it.

Mr. BROMLEY. If I stated that, I was in error.

The CHAIRMAN. The point of the chart, of course, is that any one or more of the 25 other major industries might actually have higher wage rates than National Dairy Products.

Mr. BROMLEY. That is true. If you wish to establish the fact as to whether or not I have, I would be glad to have the conference board file with you the basic data from which this was compiled.

The CHAIRMAN. It might be well to file that with the committee. It wouldn't go into the record, but the committee would like to have the source of your figure. By the way, what is the source?

Mr. BROMLEY. It is the National Industrial Conference Board.

The lower portion of the chart is representative of the employees, the average number of employees of National Dairy from 1930 to date. The figures at the right show what those are in numbers. We started with 36,565 in 1930. At the low point in 1933, 31,775; and the current number, that is the number last year, about 36,000, 35,911.

The CHAIRMAN. That is a pretty large army.

Mr. McINNERNEY. It is quite a city. I offer the chart.

The CHAIRMAN. Certainly, it may be admitted.

(The chart referred to was marked "Exhibit No. 458" and is included in the appendix on p. 3262.)

The CHAIRMAN. Through how many States are these employees scattered?

Mr. McINNERNEY. Well, we are incorporated in every State in the United States, I think; we do business in every State with our distribution system which is quite an extensive one. We are in practically every city that has a road into it with our own mechanical unit or our truck once a week, so that we cover the United States pretty thoroughly.

The CHAIRMAN. This is a national milk army.

Mr. McINNERNEY. Yes.

The CHAIRMAN. What proportion of this number is employed for the delivery of milk in all of the movements that go into the actual house to house delivery?

Mr. McINNERNEY. Well, if you—I think we have about 7,600 trucks. Is that right? Approximately 7,500 trucks, which would mean drivers, of course. Then we have in addition to that quite a few horse-drawn—we still have in New York approximately 1,500 to 2,000 horse-drawn vehicles. I would guess about 10,000 people, not quite one-third of the total, are in the distributing ends of the business.

The distributing end of our business costs in excess of \$50,000,000 a year.

I want to clarify it a little bit. I don't contend that we are distributing milk as milk in all our sections, that takes in it our cheese, butter, salad dressing, and all that sort of thing. We are not in the fluid-milk business in as many places as we are in the distribution of cheese.

The CHAIRMAN. But you would still say that approximately 10,000 persons are employed in the distribution of fluid milk.

Mr. McINNERNEY. No, no; not in fluid milk.

The CHAIRMAN. How many?

Mr. McINNERNEY. I should judge around 5,000—6,000 I think. We have about 6,000 in fluid milk; yes.

In the distribution of fluid milk the week is a 6-day week and because we are obliged to deliver 7 days a week we have to have what is called a swing man for every six men. In New York City we have approximately 2,500 drivers and the 1 for every 6 men means

that we have a little over 400 additional men who also work 6 days a week. In other words, we have to have $1\frac{1}{6}$ men for every truck we have so long as we continue to deliver milk on Sundays.

Mr. PATTERSON. You mean that swing man is a relief man?

Mr. McINNERNEY. We wouldn't call him that. He is permanently employed, Mr. Patterson. He is on our pay roll with a fixed pay the same as a driver. He has a permanent position.

Checking back here we have in the fluid-milk business all told 4,500 routes in the distribution of fluid milk. I don't want to bring in the social security, but this chart might emphasize that our cost of social security last year was \$2,750,000. We don't use much of it because of our employment. National Dairies has always paid one of the highest annual wages paid in any industry. We have also given our employees a greater-than-average job security. I have read that.

Improved quality and improved service has meant added costs for the milk company.

The CHAIRMAN. May I interrupt to develop a little about that annual wage? All of your employees are on an annual wage?

Mr. McINNERNEY. Well, I think the major portion is in the ice cream when your peak in the summer months is so much out of line with the winter I would say that that is so, but I would guess that 85 to 90 percent are on an annual wage. I don't mean that they are paid annually. They are paid so much a week.

The CHAIRMAN. I understand that; but they are given annual employment on a yearly basis.

Mr. McINNERNEY. Yes, sir.

The CHAIRMAN. In other words, you have stabilized employment. You have stabilized the tenure of the job as well as the wage that you pay?

Mr. McINNERNEY. We have; yes. In the Kraft organization of about 9,000 employees, of course, that work is just as stable as any other business. It is continuous.

Senator KING. What do you mean by the craft?

Mr. McINNERNEY. Well, Kraft-Phenix Cheese, Senator, is a subsidiary of National Dairy.

Senator KING. I was familiar with that. I didn't know but what you had some category which performed the incidental work that you denominated "craft."

I want to ask one question. You stated the social-security payment there. Does that include the payments made by the employees, those that have been made exclusively by employees?

Mr. McINNERNEY. It is exclusively our part, two and three-quarter million last year. Our pay roll is approximately \$65,000,000, and I think the basis last year was 4 percent.

Senator KING. What would be the amount paid by the employees?

Mr. McINNERNEY. It is 1 percent, I think.

Senator KING. It would be one-fourth.

Mr. McINNERNEY. It is two this year. Last year I think it was one. Our figures show, as long as we are on that, if you don't mind, in 12 years, taking what we pay and what the employees pay, it would amount to \$48,000,000 money that would be turned over to the Treasury of the United States that belonged—maybe it doesn't belong to

us, but we have some interest in it, our employees have an interest and we have an interest—\$48,000,000 in 12 years.

Improved quality and improved service have meant added costs for the milk company. This added cost, however, has not resulted in increased charges to the consumer or decreased payments to the farmer. Neither has it meant any change in the consistently high wages. The performance of Sheffield Farms Co., our New York City company, provides a clear example of this. Sheffield has done an outstanding job in quality improvement over the past 15 years. Despite the fact that wage increases alone during this period have amounted to an additional cost of about $\frac{3}{4}$ of a cent on each quart of milk it sells, Sheffield's spread—the difference between its average selling price and the price it pays the farmer—has actually been reduced $\frac{3}{4}$ of a cent. In the face of increased labor costs, this decrease in spread has been made possible only because of marked improvement in operating efficiency, resulting from the substantial investment made in modern plants and equipment, such as is described in the attached pamphlet entitled "Linking Farm and City." The resulting savings have been translated into both lower selling prices and higher payments to farmers.

The CHAIRMAN. Now Sheffield operates in what area, Mr. McInnerney?

Mr. McINNERNEY. In the New York milkshed. Their principal business is in New York, Brooklyn, and Manhattan. We go up—

The CHAIRMAN (interposing). It doesn't operate nationally?

Mr. McINNERNEY. No, sir; it operates nationally in its evaporated milk and in Jersey, Sheffield are in Jersey.

The CHAIRMAN. Except for the evaporated milk it has a local territory?

Mr. McINNERNEY. Yes; you have this booklet which I enclosed in the back?

The CHAIRMAN. Yes; we have all received a copy of that.

Mr. McINNERNEY. Can I file that for the record?

The CHAIRMAN. Yes; it may be filed with the committee. Of course, it won't be reproduced in the record.

Mr. McINNERNEY. Very well.

(The pamphlet entitled "Linking Farm and City" was marked "Exhibit No. 459" and is on file with the committee.)

Mr. McINNERNEY. That is the new modern plant just about completed. We think it is the most highly efficient plant ever constructed.

The CHAIRMAN. Do you have any other plants like the Sheffield in other parts of the country?

Mr. McINNERNEY. Oh, yes; we have a great many plants. We have just finished a new plant in St. Louis at a cost of a million and a half. The Sheffield plant cost about \$3,000,000. We have just finished a Kraft-Phenix plant in Chicago. What we tried to do when the depression came, we mapped out a 5-year budget and spent it in 3 years to contribute our share toward giving employment, so we built in that period the big plant in New York, the big plant in Chicago, and the big plant in St. Louis. We have—of course, I could send you pictures of plants, but we have a great many.

The CHAIRMAN. Then you have the country divided up into regions in much the same way that the Government has the country divided into regions, as, for example, under the Federal Reserve Board.

Mr. McINNERNEY. We call our regions zones. We have zones throughout the United States which cover Northwest, Central, West, and so forth.

The CHAIRMAN. In all these zones the policies to be followed in the zones are governed by the governing authority of National Dairy?

Mr. McINNERNEY. Well, the various companies, subsidiaries, retain their existing organization. When we acquired these companies we continued the corporate structure, and while I presume I as head of National Dairy Co. could exercise that authority, I have never found it necessary. But we maintain the local contact, the local bank accounts, lend ourselves to local civic activities and the heads of our business are, for instance, Mr. Andre, of Cleveland, quite prominent in all the affairs there, business there, and is president of Telling-Bell-Vernon Co., which is our company there.

The CHAIRMAN. Yes; I am aware of that. As a matter of fact, personally for 5 or 6 years I have been a patron of the Chevy Chase Dairy in the District of Columbia, and it was only recently that I discovered that I was a patron of National Dairy Products. I thought I was purchasing my supply from a local company, and now I find I am purchasing it from a national company.

Mr. McINNERNEY. Well, it is a local company, Senator. Mr. Brawner,¹ who is the president of that company, the son of the partner, Mr. Brawner, Sr., died about 2 years ago, and he succeeded him. His organization and board of directors and officers are just as they have always been, so we'd like the public to think, too, that it is a local company, although we are not in any way denying that we do own the company.

The CHAIRMAN. Of course, that is the same argument that is made by the grazing service in the Department of the Interior, for example. Now, our ranch men out in Wyoming like to think that there is local management of grazing, but actually the management of grazing is not local at all. It is national.

Mr. McINNERNEY. Well, it is one of those questions that is before us, or at least we are reminded of it constantly.

QUESTION OF GOVERNMENT CONTROL OF INDUSTRY GENERALLY

The CHAIRMAN. You know, I have the notion, Mr. McInnerney, if you will pardon the interruption, that one of the reasons why our Government is getting so big and taking so intimate a part in the affairs of individual citizens all over the country is because business management has become so big that it also takes an intimate part in the affairs of the people all over the country.

If you didn't have this army of 35,000 employees serving milk in practically every State in the Union, and numerous other big business enterprises having the same sort of set-up, it might not be so necessary for Government to be so big.

¹ Edgar M. Brawner, whose father was Henry M. Brawner.

Mr. McINNERNEY. Well, I don't know. Thinking along that line has changed. When I started this program, and I admit that I bore this child, and conceived it. I thought I was doing a wonderful thing for the industry, and, of course, I didn't imply or say to investors that there would not be a profit in it. Naturally, I couldn't have gotten the amount of money out of it unless I had painted an attractive picture of the return.

When I did, I thought I had really accomplished something.

The CHAIRMAN. I don't believe anybody would criticize legitimate efforts to make profit.

Mr. McINNERNEY. I think we have never done anything except the legitimate thing; I hope we haven't. We certainly wouldn't lend ourselves to it.

Senator KING. In view of our statement of our chairman about the Government being so big, I think it would be far better for the country and for individual initiative development if the Government didn't try to be so big.

Mr. McINNERNEY. I think I subscribe to that, but I may be a little old-fashioned, and not quite as modern as the present thinking seems to be.

The CHAIRMAN. When you subtract Senator King's statement from my statement, with your approval, then that subtraction answers that the only thing that should be left big in the country is business.

Mr. McINNERNEY. I can subscribe to that. Of course, the hard part of it for a man of my schooling and my thinking is that they charge me so much money to do the thing that I don't want them to do. I am one of the largest taxpayers in the United States, I mean Federal and State. I would think that the balance might be better attempted if the Government would consider the business a little more than they apparently do.

After all, when the control bill was put into effect in New York I went to see Governor Lehman about it. He had been one of our banking partners, and the result of it was that after 2 years' trial he said before a group of farmers in Syracuse he thought that the problems of the industry would be better solved by the industry. I think this problem of milk distribution is so important and the handling is so important to the health that it can be better handled by the industry than it can be by any governmental agency.

The CHAIRMAN. You are discussing the heart of the problem now.

Mr. McINNERNEY. I might, Senator, say that we are not fighting control if it is on a sound, economic basis; and while I don't think it is an emergency, it is probably all right and we may have to continue a very deplorable condition. It is a good deal easier to fall into a hole than it is to crawl out of one.

Now the industry is in a hole. The men in the industry didn't create this situation; they fought it every inch of the way that they could see, or thought they could see; but criticism, and it is a very attractive thing to talk to the voter and the public about the justice of the high price of milk. As a matter of fact, the caloric value and food value makes milk the cheapest food in the world. We had a situation in one State in which the mayor of the place, after one of these investigations, in big headlines said that the price of milk should

come down to the consumer. It just accidentally happened, unfortunately for him, the same day the Governor said the farmer wasn't getting enough for his milk.

Well, if you can put that together and make sense out of it, unless you think of it in terms of appeal to voters, I don't know how you could pay a farmer more and sell for less somewhere along the line.

The CHAIRMAN. How is the industry going to govern itself?

Mr. McINNERNEY. Well, it always has until the last few years, and did a very good job, constantly increasing consumption; farmers got constantly increasing prices. We have worried through many distressed conditions; at one time the farmer owed us \$4,000,000 for money we advanced in the purchase of cows. There was hoof-and-mouth disease and other things that went through certain sections; the farmers paid us, but we never made a nickel profit on a single cow.

We have done many, many things to help the farmer, not because we were any more altruistic than anybody else, but because we believe that if the farmer can't be successful, he can't produce our product—where would we be? If the farmer can't give us goods, we won't have anything to sell. We do operate 4 farms, but they are relatively small in proportion—about 1,500 cows; relatively small in proportion to our total need. We take the product of about one and a half million cows and naturally our bread is buttered in pointing out to the farmer and helping the farmer.

The CHAIRMAN. Aren't you overlooking something in that statement? Of course, you are talking only about the milk industry, but when you say that industry was always able to govern itself, and things were getting along splendidly before the Government intervened, aren't you overlooking the fact that industries' efforts to do this culminated in a tremendous crash in 1929?

Mr. McINNERNEY. Well, I don't think it was the fault of industry that we had a crash in 1929.

The CHAIRMAN. Was it the fault of Government?

Mr. McINNERNEY. I wouldn't say so; I think it was the reaction after a terrible siege of war and everything thrown out of balance.

The CHAIRMAN. Well, did industry cure it?

Mr. McINNERNEY. I think industry would have cured it; yes.

The CHAIRMAN. Well, it had a chance?

Mr. McINNERNEY. I don't think it had a chance. It did cure it up to 1929; it may have lasted a little longer, but when you destroy so many lives and do so much damage, you have to rehabilitate a man after he has gone through the horrors of war. I was not at war, but I was in Washington for 4 years during that time, and I saw a good deal of it, and I don't see how you can get back to normalcy with the tremendous disturbance of individuals, going up and down the line, as quickly as you would like to, but certainly industry was going at great speed in the early thirties, '29, '27, and '28.

The CHAIRMAN. After the collapse there was '30 and '31 and '32. Did it recover?

Mr. McINNERNEY. It didn't recover, of course. I don't see how it could. Cycles don't show it ever has been possible to recover in 3 or 4 years.

The CHAIRMAN. Isn't it a fact, Mr. McInnerney, that business and industry and in fact all the public are constantly turning to Government for assistance and aid of one kind or another?

Mr. McINNERNEY. No doubt about it, but that doesn't follow that they should have it.

Senator KING. That doesn't follow that it is a wise philosophy to adopt?

The CHAIRMAN. No, it doesn't; but let's consider what actually happened throughout the life of this country. Beginning in the time of Alexander Hamilton right down to this hour Government has been delving into the public till to aid business in one way or another. We have spent millions on rivers and harbors, for example, to make commerce easy. That has been going on from the very earliest times. The Government made huge grants of land to help the railroads, and in our own time, regardless of whatever administration is in power, we have contributed millions out of the Public Treasury for the development of aviation.

We paid an air subsidy in order to develop aviation. We paid a mail subsidy to carry mail upon the ocean for the express purpose of building up a merchant marine, and even at this moment the air lines are appearing before the Civil Aeronautics Authority, urging Government to increase the subsidy which is paid to business, so that when a business executive comes before me to say Government must let business alone, I can't help remembering that there has never been a time, so far as I have remembered the history of the United States, that business hasn't been coming to Government for assistance and help, and getting it.

Mr. McINNERNEY. No doubt that is true, but that doesn't prove that it is right, because the Government does it.

The CHAIRMAN. Not at all.

Mr. McINNERNEY. I have been in business a good many years; I never came to the Government for any help. I am in a good many companies and so forth. Probably in too many, but I have never asked the Government for a nickel; I have always given them money. Now if I were in the business I might be glad to give the Government money because they might need it for war purposes, but purely commercial propositions, I don't see any reason to give the air companies any money, or anybody else in business.

The CHAIRMAN. But when you lay down a general rule, Mr. McInnerney, we must look at the general application of that.

Mr. McINNERNEY. You are emphasizing the exceptions. There are more businesses that have never had any Government subsidy.

The CHAIRMAN. I could stay here for an hour and show I was not dealing with exceptions at all, but with the general rule. To begin with the tariff, and my friend Senator King would assist me on this; the tariff is an aid to business; it is a tax upon the consumer for the purpose of helping business.

Mr. McINNERNEY. Absolutely; but it also helps labor and gives labor jobs in this country.

The CHAIRMAN. Surely.

Mr. McINNERNEY. I don't want to get into a discussion of tariff because I don't subscribe to some of it.

The CHAIRMAN. But you opened the discussion by saying that Government ought to let business alone.

Mr. McINNERNEY. I still repeat it.

The CHAIRMAN. We are living under a Constitution which was drafted 150 years-plus ago, in which the framers of the Constitution conveyed to Congress the power to regulate interstate commerce. Evidently expecting that Congress should do it, and when the leaders of commerce come before Congress and tell us that there shouldn't be any regulation of business, they are merely saying that the fathers of the Constitution didn't know what they were doing when they set up a Government which should regulate commerce in the public interest.

Senator KING. It seems to me we are getting into an argument here as to some of the propositions submitted by my friend, the chairman. I should dissent and dissent very vigorously; I don't accept all of the philosophy and implications and connotations made by my dear friend, the chairman of this committee. I think many of these evils to which he has referred, for instance the situation after the war, resulted from the enormous speculation of the people in the United States; and the war debts and our loaning to Germany 2 or 3 billions of dollars, which we ought not to have done following the war. We know that during 1926, '27, '28, and '29 every farmer nearly, boys on the ranch—everybody that could reach a telephone would phone into New York to buy stocks and bonds. The people were mad in the purchase of stocks and bonds.

They increased the sale, their indebtedness, billions of dollars. At one time in New York City alone there were more than \$8,000,000,000 of loans upon collateral. People would buy stock and they would pledge that stock to the banks and, of course, the stocks amounted to prices wholly in excess of any intrinsic value. The result was when the people began to appreciate the fact that they had built up this inflated situation, then the bubble burst.

The CHAIRMAN. All because Government didn't exercise its duty to regulate the sale in interstate commerce of worthless stocks.

Senator KING. The States had the opportunity, and if the people had wanted it they could have done so. I am in favor of States' rights as against Government supervision upon every activity, but I think that this is not germane to the discussion before us, and I wouldn't have said a word.

The CHAIRMAN. Only in response to the suggestion of the witness. Mr. McInnerney, we will allow you to proceed for a little while.

Mr. McINNERNEY. Of course, my statement was predicated on my unfortunate experience with Government control, and so forth. I think that there are instances in this situation where maybe the Government ought to be in control temporarily. I am not fighting Government rules or anything else. I am just saying that business, our business, is punch drunk from investigations, and so forth. We are investigated by the Federal Trade Commission—nice gentlemen they are. I have appeared before them many times. We have been investigated by the Department of Justice, not once—I would hate to tell you how many times. We are going to be investigated again. Senator King was chairman of the last one, which I appeared before for 4 or 5 hours, and we don't mind, except it takes our minds from our business.

The CHAIRMAN. At least you are here voluntarily.

Mr. McINNERNEY. Yes; I appear voluntarily, and I say I am enjoying it.

Of course, we are going to claim all we can.

The efficiency of our fluid milk distributing companies' route delivery service is not equaled in any other industry. We are delivering a perishable 3¾-pound package to millions of homes 265 days a year, in all kinds of weather, at a lesser cost than ordinary letter postage. We do so at a profit that averages at best only a small fraction of a cent per quart.

No other food industry renders a comparable service to the public. And it is largely because of this service that milk consumption in the United States ranks far ahead of practically all the leading nations of the world. Daily doorstep delivery keeps milk constantly before the public in a fashion not equaled by any other system of distribution. This daily delivery service has been the most important single factor in making milk the largest, most dependable, and reliable source of farm income in the United States. Chart 4¹ shows how much the greater stability of farm income from milk has added to dairy farmers' purchasing power.

MILK INCOME TO FARMERS COMPARED WITH OTHER FARM INCOME

MR. BROMLEY. The top portion of this chart compares percentage-wise the trend of farm income from milk with farm income from all other agricultural commodities.

The CHAIRMAN. What is the source of these figures?

MR. BROMLEY. The United States Department of Agriculture.

The black bar represents the dollars of farm income received on the average between 1925-29 from milk. That bar represents \$1,700,000,000.

The lighter bar is the figure representative of the same information for farm income from all other agricultural commodities excepting milk. That bar represents \$8,524,000,000. The bars in the following years show the proportion of the average income for these two groups, two farm groups, received by farmers for each of these years. The lower portion of the chart—

The CHAIRMAN (interposing). Pardon me, but before you leave the upper portion, you speak of all other agricultural commodities.

MR. BROMLEY. That is correct, sir.

The CHAIRMAN. The Department of Agriculture, I am informed, hasn't made any such summary of all commodities. You made that yourself, did you?

MR. BROMLEY. I made that myself from the data supplied by the Department of Agriculture.

The CHAIRMAN. How many other agricultural commodities are included?

MR. BROMLEY. I am not certain of the exact number, from memory, Senator. They are in excess of 40 or 50. I would be glad to file with the committee the precise source, page, and so forth, of this information.

The CHAIRMAN. Would you be good enough to do that so it may be checked with the figures of the Department of Agriculture?

Senator KING. Obviously that included cotton, wheat, rye, barley—

¹ "Exhibit No. 460," appendix. p. 3223

Mr. BROMLEY. All of those things down to honey, beeswax, and flaxseed.

It is interesting to note that farm income from milk never declined as much as the average decline in farm income from all of these other agricultural commodities during any of these years from 1930 to date. The lower portion of the chart shows what this lesser decline in milk, or in the farm income from milk, has meant in added dollars in dairy farmers' pockets. This compilation was constructed in this fashion, and I will cite one instance only. In 1930, for instance, farm income from milk was down only 3.8 percent from its '25-'29 average. Farm income from everything else was down 20 percent. The difference between those two declines is 16.2 percent.

If milk had gone down as much as everything else, it is quite obvious the dairy farmers would have received 16.2 percent less of the '25-'29 average than they actually did.

The CHAIRMAN. Here again you are comparing the income from milk with the average income from all the others.

Mr. BROMLEY. That is correct, sir.

The CHAIRMAN. There may be agricultural commodities which produced much greater income than milk for the farmer.

Mr. BROMLEY. You are referring percentage-wise?

The CHAIRMAN. I mean actually.

Mr. BROMLEY. There are no other single agricultural commodities producing more income for the farmer than milk. If you combine all meats, it is true, but pork, lamb, and so forth, alone do not.

The CHAIRMAN. Milk itself produces a larger income than any other single commodity?

Mr. BROMLEY. That is correct, sir, and a more stable income, as this chart indicates.

The 16.2 percent more income that dairy farmers received in '30 than the average receipts of farmers producing all other types of agricultural commodities combined amounted to \$274,000,000 in '30. You do the same thing for each of these 9 years, and the aggregate increase, or rather the additional money dairy farmers received over what they would have received had their income gone down as much as all other farm income, amounts to about \$1,800,000,000.

Senator KING. Could I ask a question there? In this decrease in the income, was it the result of less consumption or a lowering of price?

Mr. BROMLEY. You are referring to production, are you not, Senator?

Senator KING. Yes.

Mr. BROMLEY. Mr. McInnerney comes to that in a few moments, if you prefer to wait.

The CHAIRMAN. What is the chart intended to show, Mr. McInnerney?

Mr. McINNERNEY. It is intended to show that the dairy farmer got \$1,800,000,000 more than he would have got if he had been in ordinary agricultural production. Dairy has yielded him more money and less reduction in income than any other.

The CHAIRMAN. The only purpose of the chart is to indicate that the milk production is the very best of all the farm enterprises.

Mr. McINNERNEY. Yes, sir.

The CHAIRMAN. Of course, while the situation which you describe on this chart was developing the production of milk was increasing.

Mr. McINNERNEY. Yes.

The CHAIRMAN. Proceed.

Senator KING. It shows a greater stability, too, in the production and consumption of milk than in other commodities.

Mr. McINNERNEY. Of course, the dairy farmer found out quite some time ago that he can convert his grain into milk and get more money for it. Then the agricultural colleges are teaching the dairy farmer that a cow below an average cow is a boarder cow, and you ought to trade it for one that will yield more.

The CHAIRMAN. I wanted to make sure that the chart was not intended to indicate that the price of milk had been maintained at a better standard than any other.

Mr. McINNERNEY. I don't think that was the intent at all.

Mr. BROMLEY. I beg your pardon, sir; I am sorry, I did not get the question.

The CHAIRMAN. I said, I wanted to be sure it was not intended by this chart to indicate that the price of milk had been sustained, the price to the farmer.

Mr. BROMLEY. This chart does not indicate that, Senator. Senator King's question was germane to your question. We come to that.

(The chart referred to was marked "Exhibit No. 460" and is included in the appendix on p. 3263.)

Mr. McINNERNEY. We are interested and anxious to sell milk by any system of distribution which will further increase consumption and permit a fair return on the capital invested in the industry by both farmers and distributors.

In evaluating National Dairy's achievements, one must bear in mind the small size of the National Dairy Products Corporation in relation to the size of the dairy industry. I refer you to chart 5. Dairying is one of the largest industries in the Nation, measured either in terms of investment or sales volume and profits. That is estimated at about \$3,000,000,000 annually in sales.

PROPORTIONS OF TOTAL MILK PRODUCTION USED BY FARMERS, USED BY ENTIRE DAIRY INDUSTRY AND USED BY NATIONAL DAIRY PRODUCTS CORPORATION

Mr. BROMLEY. The top line in this chart¹ is representative of the total milk production in the United States. The second line shows what we have termed—it is termed in the industry, I think—commercial milk production. The reason that all of the milk produced isn't commercial milk is that there are about thirty-odd million farm families, and a lot of the milk that is produced on a farm is consumed by the farmers on that farm for their family and household needs. They sell, therefore, only a portion of their milk.

This area from the second line down is representative of what they sell. The shaded portion at the bottom shows the amount of milk required to make the milk and dairy products that National Dairy's divisions sell. This portion is about 11 percent of the commercial milk production

¹ "Exhibit No. 461," appendix, p. 3264.

Naturally, it is a smaller percentage of the total milk production. We do not use—National Dairy does not use—11 percent of the commercial supply of milk produced on farms. We purchase less than 5 percent direct from farmers. That comes about because a good portion of the products that we purchase are already processed and manufactured by creameries, cheese companies, and so forth.

Senator KING. How do you estimate the amount produced and consumed by the farmers, not sold?

Mr. BROMLEY. That is supplied to me, Senator, by the Department of Agriculture. It is part of the Bureau of Agricultural Economics statistical information.

Senator KING. Do they furnish an estimate of the amount of milk consumed and produced by the farmers?

Mr. BROMLEY. They do that.

Senator KING. Have you in mind the percentage of milk consumed by the farmers?

Mr. BROMLEY. Approximately one-quarter of the Nation's milk production each year is used by farm families. You mustn't think that they bring it in in a pitcher and set it down on a table and drink it. They don't do that. I am quoting from memory now, but about one-third of that 25 percent, I believe they estimate, is being consumed in fluid form. A much smaller portion is fed to calves running with cows, and so forth and so forth.

The other, a little over half of that 25 percent, is used by farm families to make farm butter. Again, they don't bring the butter in from the churn and put it on the table. I think about half of all they make is sold. It is sold, however, to their neighbors. In a sense, that milk, a portion of that milk, is commercial milk in that the farmers sell it, but it isn't commercial milk in the sense that they bring it in their can into the creameries and have a commercial creamery make it.

Senator KING. In view of this large consumption by the farmers and by their neighbors, the production of \$1,750,000,000, or rather the value, of the dairy industry ought to be increased some.

Mr. BROMLEY. Yes; this other chart referred to the farmers' cash income. Naturally you have a value in anything you produce on your farm which you consume yourself. If you want to become an accountant, and so forth, you can set up anything you wish.

Senator KING. The point I am trying to make is that there would be an addition to the \$1,800,000,000 by reason of the large amount consumed by the farmers themselves, or their neighbors, either as milk or butter or other products.

Mr. BROMLEY. That is correct, Senator. The Department also has an estimate on that figure. As I recall, for practically all the 40 or 50 commodities which the Department estimates farm income on, they show what is called gross income and cash income to the farmers, the difference between the two figures being what you mentioned.

Senator KING. It might add 50 or 100 million dollars to the \$1,800,000,000.

Mr. BROMLEY. I believe it is somewhat larger than that.

The CHAIRMAN. What percentage of the amount of milk sold to the general trade was sold by the National Dairy Products Corp. for

the year 1938? What is that figure? This young man can answer that. It is apparently about 5 percent, but I wanted your exact figure.

Mr. BROMLEY. The amount of commercial milk, this column here, is 37,501,000,000 quarts. Our figure is 10.9 percent.

Mr. McINNERNEY. This isn't fluid milk; that is all milk equivalent.

The CHAIRMAN. I am talking now in terms of this chart. Is there any other corporation that sells a comparable amount?

Mr. McINNERNEY. No. I think that we are the largest handler of milk in the world.

The CHAIRMAN. What is the next largest in the United States?

Mr. McINNERNEY. I wouldn't know, but I imagine Borden. I am quite sure it would be Borden.

The CHAIRMAN. Do you know what their sales would amount to?

Mr. McINNERNEY. I know their sales as published, and I heard their testimony yesterday.

The CHAIRMAN. You don't imply there is a difference between their published figures and the actual figure?

Mr. McINNERNEY. My recollection is our sales were \$334,000,000, and their sales were \$240,000,000. I think there is approximately \$100,000,000 difference.

The CHAIRMAN. In terms of percentages on this column, what would it be? What I would like to have you do, with a pencil, is mark on that column of 1938 the approximate position that would be occupied by the Borden sales.

Mr. BROMLEY. That I can't do, sir, without referring to the Borden report, and I don't know that I can then.

The CHAIRMAN. You have just given me a figure.

Mr. BROMLEY. That is in dollars and cents of sales, Senator. I do not know whether The Borden Co. published their milk equivalent sales.

The CHAIRMAN. Mr. McInnerney, you have a pretty good idea of what these other big corporations are doing.

Mr. McINNERNEY. I am afraid, Senator, I only know their dollar sales, and we haven't bothered with converting it on our basis as to what their tonnage would be. The character of the business is entirely different.

The CHAIRMAN. Well, you have a pretty good idea of how much milk they buy.

Mr. McINNERNEY. No; I am afraid I must say I haven't. I don't know why I should have. We are competing in many markets, but there are lots of markets in which we are not.

The CHAIRMAN. You wouldn't be able, then, even to give an approximation?

Mr. McINNERNEY. I think we could get it; there is no secret about it.

The CHAIRMAN. That is right. Of course there is no secret about it.

Mr. BROMLEY. We find that in the Borden testimony yesterday, Senator, they say that they had a milk equivalent of 2,226,000,000 quarts. Since this black portion represents about 4,055,000,000, the two and a quarter would be approximately 50 percent more.

The CHAIRMAN. Is there another large company that deals in milk products? How many large companies are there?

Mr. McINNERNEY. Well, there is a Golden State, Beatrice Creamery, Fairmount Creamery, a rather large western company, Carn-

tion. They, of course, are in one type of business, the evaporated business. Pet Milk is rather good sized, also evaporated and in other lines. Nestle Foods, also canned milk pretty much.

The CHAIRMAN. These are all national companies, are they?

Mr. McINNERNEY. Bowman Dairy in Chicago is a good-sized company, but but they are not national.

Senator KING. What do you mean by national—beyond the borders of a State?

Mr. McINNERNEY. Bowman may ship a little milk powder into this market or the New York market for baking purposes, but it is rather small.

The CHAIRMAN. If we were to take the sales of all of these large national companies, how much higher would that column run?

Mr. BROMLEY. I don't, I regret, have a Federal Trade Commission report that contains that information with me. It is my recollection—and the representatives perhaps can verify my memory—that if you totaled all of the milk equivalent handled by the largest units in the industry, my memory runs to 10 or 12, that the total milk equivalent they would handle would be about one-third of the commercial milk production of the country. It was significant that the Federal Trade Commission in giving that information, which was in conjunction with similar information for 7 or 8 other industries, pointed out that the amount of milk handled by these 10 or 12 largest units in our industry was proportionately much less than the total volume of production handled by the largest units in most other industries.

The CHAIRMAN. I notice from chart 17,¹ I think it is, it is indicated that in 1935 there were 4,516 companies engaged in distributing fluid milk.

Mr. BROMLEY. That isn't comparable with what we are talking about, Senator, for this reason: That refers to competitors in the fluid-milk business in most of the markets in which our units operate. This thing here includes not only fluid-milk companies but cheese companies, creameries, condenseries, and the whole gamut of other things that handle milk.

The CHAIRMAN. So that if the whole gamut of other things were included there would be more than 4,500 separate units?

Mr. BROMLEY. There are 10,000—12,000—15,000 companies in the dairy industry, surely.

The CHAIRMAN. So that this chart shows, coupled with your testimony, that 10 or 12 companies put out at least one-third of all of the commercial milk production handled by 15 or 20—

Mr. BROMLEY (interposing). I think it is 12. I may be wrong.

The CHAIRMAN. Thousand?

Mr. BROMLEY. Your guess is as good as mine, sir. There isn't any such figure available.

The CHAIRMAN. I am taking your guess. You are the expert. I am not.

Mr. BROMLEY. Make it 12,000. That is very conservative.

The CHAIRMAN. So that 12 companies handle one-third of the entire commercial output handled by 12,000 companies?

Mr. BROMLEY. Yes; and the significant point of interest was that in our industry that percentage of 30 percent is significantly less than the comparable percentage in many other industries.

¹ "Exhibit No. 472," introduced, *infra*, p. 3060; included in appendix, p. 3275.

The CHAIRMAN. I know. In some industries it rises well above 80 percent for two or three.

Senator KING. Let me ask a question, Mr. Witness: Are there not a large number of cooperatives which produce milk and sell milk, even beyond the boundaries of the States in which they are organized?

Mr. McINNERNEY. Yes, sir; there are many of them.

Senator KING. I know there are cooperatives and producing companies in California, and they produce a large volume of milk as well as butter, cheese, and other commodities.

Mr. BROMLEY. The cooperatives sell all over the United States certain products.

Mr. McINNERNEY. We didn't include Land o' Lakes and Dairy-men's League.

Senator KING. Have you included in the production the milk which is produced by the cooperatives and handled by cooperatives?

Mr. BROMLEY. Again I am quoting from memory, Senator, but I think Land o' Lakes, the large butter cooperative of the farmers, was included as one of the 12 largest companies. I wish I had the report in front of me. I can't carry it all in my mind.

The CHAIRMAN. But there are a large number of smaller companies, cooperatives, and small privately owned corporations, that have factories and depots in various States where they assemble their milk and from that point distribute it to various States and various communities?

Mr. BROMLEY. That is correct.

Senator KING. Did you have the Mutual Creamery Co. among your number?

Mr. BROMLEY. The Mutual?

Senator KING. Yes. That, a number of years ago, had, as I recall, some 15 or 20 stations in surrounding States where milk was assembled and from which milk was distributed, and where cheese and butter were manufactured.

Mr. BROMLEY. I couldn't say, sir. I don't remember.

The CHAIRMAN. The percentage of the total sales in various cities held by your company, or by Borden Co., would be very much larger than shown in this chart for the Nation.

(The chart referred to was marked "Exhibit No. 461" and is included in the appendix on p. 3264.)

Mr. McINNERNEY. Our percentage of sales would show a larger percentage of the total purchase.

The CHAIRMAN. For example, yesterday it was testified that the Borden Co. handled approximately 5 percent of the total national trade in milk, but in New York City it handled about 24 percent. I was wondering what change would be made in this chart if, instead of being constructed upon the basis of national sales, it would be constructed upon the basis of sales in the big cities.

Mr. McINNERNEY. Well, I think in New York City that we have a little more in percentage than Borden. I should judge we run 26 or 27 percent of the business, as near as we can estimate it.

The CHAIRMAN. I have before me the report of the Federal Trade Commission on sales in the New York area. This is House Document 95 of the Seventy-fifth Congress, first session, on page 88 of which there appears a table which shows that National Dairy

Products Corporation's proportion of the sales in Hartford, Conn., amounted to 47.26 percent of milk; in New Haven, 26.88; in New York, 24.08; Philadelphia, 31.48; Wilmington, 45.52; Baltimore, 81.45; Washington, 36.01; Pittsburgh, 42.51; and so forth. There are several other cities.

Mr. McINNERNEY. What is the date of this report, Senator?

The CHAIRMAN. January 5, 1937.

Mr. McINNERNEY. Well the percentages have declined in those markets from that date until now; I think they are approximately correct, so far as Washington is concerned, as long as you mention Washington. We are down below 50 percent in Washington at the present time. In Philadelphia we are down below 21, and in New York our business has declined just as the others, so that our Pittsburgh business was higher at one time than 42 percent. It is down quite considerably. In fact, all of our markets, the percentage has declined steadily in the last 3 to 5 years.

The CHAIRMAN. So if a chart were prepared upon the basis of the sales in say cities of 100,000 or over, the proportion handled by National Dairy Products would be considerably greater than indicated on this chart?

Mr. McINNERNEY. Of course, we are not in many cities; a lot of cities we are not in at all. There are a number of cities we don't have any business.

The CHAIRMAN. But you have a Nation-wide business?

Mr. McINNERNEY. We have a Nation-wide business, but not in fluid-milk business.

The CHAIRMAN. What I am getting at is there is a concentration of control of sales in the big cities, much greater than that which exists in the Nation as a whole?

Mr. McINNERNEY. I don't quite understand the total of sales. The wholesale business in our business is a very fluctuating business. The family delivery is the business that because of its more secure position, less changes, even though it isn't particularly profitable at the present time, it has been profitable; we are rather jealous of it and like to keep it. The wholesale business is a matter largely of price and with these various controls, and so forth, I made the statement that we were penalized for observing the law because we didn't violate the law and the chiseler, and so forth, did, and for our good conduct we lost our business, a large part of it.

The CHAIRMAN. I can see how that might happen.

Mr. McINNERNEY. There was no enforcement. We think the law necessary; it is all right with us; we can live under any conditions.

The CHAIRMAN. But when you organized National Dairy Products Corporation you undertook to form a national corporation which would deal in this business?

Mr. McINNERNEY. Yes.

The CHAIRMAN. And you undertook to go into as many States and cities as you could profitably enter?

Mr. McINNERNEY. No; we were offered many opportunities to go into States that we didn't go.

The CHAIRMAN. Of course, naturally there would be reasons why you wouldn't go, but by and large the purpose of the company was to extend its business throughout the country?

Mr. McINNERNEY. Well, that doesn't cover it. The purpose of the company, as I saw it, I had a formula I hoped to work out in the business. In other words, I figured that if we got top-heavy in the ice-cream business we would bring a balance in proportion, just for the sake of security of the investment, and I worked out a formula based on milk, cheese, ice cream, and so forth, and we acquired companies based largely on that and, of course, we had to have some assets, but we are more interested in earnings. We acquired these companies trying to keep our picture in balance.

The CHAIRMAN. Naturally, now, please be assured there is no—

Mr. McINNERNEY. I don't misunderstand you; I just don't want you to make a statement that is not in accordance as I understand the picture. I am only trying to straighten it out; I have no objection to any questions you ask me, of course.

The CHAIRMAN. I want you to be sure that I am just seeking information and not trying to imply any criticism of the methods used by the company, or its purposes, so I say when the National Dairy Products Corporation was formed it was formed for the purpose of going into this business in a national way?

Mr. McINNERNEY. Yes.

The CHAIRMAN. And naturally you would enter those cities which you could enter profitably and you would not buy those corporations which in your judgment you couldn't buy to the advantage of your stockholders?

Mr. McINNERNEY. Quite right.

The CHAIRMAN. Now what I am getting at was, to determine what proportion of the sales in the particular cities in which you operate the National Dairy Products Corporation handled—I read these figures which you say are substantially correct, the proportion has decreased since the report was filed, but it does indicate that if a chart or let me put it in the form of a question—Does it not indicate that if a chart were prepared on the basis of sales in the cities in which you operate, your proportion of the gross sales would be much larger than as shown on this national chart?

Mr. McINNERNEY. I think that is fair in most cities.

Senator KING. In some cities there have been encroachments, then, upon your field. You have lost more than other competing companies in some cities?

Mr. McINNERNEY. Yes, sir; it has been our policy not to acquire a business that exceeded beyond what we were advised by counsel was safe basis; in other words, we were not putting our heads in anybody's noose to be told we monopolize or own and control that market. We were very careful. We always figure it isn't percentage of a business, but more or less performance. But we don't dominate the market in any city, so far as I know. We are a very large factor, of course, but we don't dominate any market.

Senator KING. There wouldn't be a leveling, constant level of production and consumption of ice cream as against fluid milk or butter, as against fluid milk, that is to say, there was a variation from time to time in the production of butter or ice cream, or your reduction of fluid milk, but you tried to maintain a balance so that you would be in reasonable relationship between the production of ice cream and fluid milk, and so on.

Mr. McINNERNEY. There had been no effort, as far as I know—of course, Borden hadn't branched out at that time to the extent we were; we were the largest but the dairy industry had not received the attention of consolidation, so to speak, up to the time I worked out my formula.

The CHAIRMAN. I have now the farm report of the Federal Trade Commission, table 62, of which, appearing on page 228, it indicates that the three largest reporting sellers of fluid milk and fluid cream handled 15.6 percent of the total. This is total sales for the whole country; with respect to butter the same three companies handled 16.3 percent; with respect to cheese, 42.7 percent; with respect to condensed and evaporated milk, case goods only, 44.3 percent.

Mr. McINNERNEY. That last—the three companies handled 44 percent of evaporated milk; they are not the same companies that were milk companies?

The CHAIRMAN. The three largest reporting sellers of each of the products listed.

Mr. McINNERNEY. But they weren't the same three?

The CHAIRMAN. It doesn't indicate they were the same three.

Mr. McINNERNEY. Because that wouldn't apply, Senator, as far as the evaporated milk is concerned. I have submitted a copy of this for your records. You have already seen from chart 4 that milk was the mainstay of farm income during the depression of the 30's. Chart 6 and 7 show in more detail why milk was able to turn in such a good record as a dependable source of farm purchasing power. Not only were farm milk prices considerably higher than the general average of all other farm prices during the depression years, but they remained higher in the face of considerably larger milk production on farms. With better than average prices and larger than average production, farm milk income naturally exceeded the trend in farm income from all other agricultural commodities.

The CHAIRMAN. From what page are you reading now? ¹

Mr. McINNERNEY. Page four, fourth or fifth paragraph.

Mr. BROMLEY. This is the price farmers received from milk, compared with the price received from all other agricultural commodities during the last several years. It is prepared from data supplied by the Department of Agriculture. It is significant that during most of these years since 1930 the average farm price related to the 1909-14 average farm price for milk has been somewhat higher and in some instances considerably higher than the average farm price received for all other agricultural commodities. It is significant that when business is particularly bad, milk's performance from the viewpoint of its farm price is substantially better. This chart shows the volume (chart 7) of milk production in the country, compared with the volume of production of all other farm commodities.

This presentation was in turn prepared from Department of Agriculture data. The production line for milk shows great steadiness and a tendency to increase, particularly in the latter years, '36, '37, and '38. The other line shows that aggregate production of farm commodities has tended to go—or it hasn't shown any definite trend, but in every year it has been proportionably lower than milk.

¹ Mr. McInnerney had prepared his testimony in the form of a printed statement.

As Mr. McInnerney has pointed out, this is germane to Senator King's question. In both the instance of farm production and of farm price, milk has been above the average of all other agricultural commodities combined. In view of that fact it is only natural that the data shown on chart 4 would prevail. That is, that the farmers' aggregate income from milk would be proportionately higher compared to averages than the farmers' income from other commodities.

In milk distributing, dairy products have contributed greatly to milk's favorable record as a dependable producer of farm income because they made good quality products readily available to consumers at reasonable prices. Consumers must buy in large volume if farmers are to prosper.

(Chart 7 referred to was marked "Exhibit No. 462" and is included in the appendix on p. 3265.)

INCREASE IN CONSUMPTION OF DAIRY PRODUCTS

Mr. BROMLEY. Chart 8 is interesting, showing, as it does, that in the aggregate the per capita consumption of all dairy products has shown a greater increase than that of any other type of foodstuff, except vegetables in recent years.

(Chart 8 referred to was marked "Exhibit No. 463" and is included in the appendix on p. 3266.)

I don't know as any particular comment is needed on this chart; it speaks for itself, change of per capita consumption during approximately the last 15 years; vegetables up 25 percent; dairy products in the aggregate up 6; fruits up 5; sugar and sirup, up 4; meats, down 9; and potatoes down 12; and cereal products down 14. In each instance those figures being percentages compared with the forepart of the twenties.

(The chart referred to was marked "Exhibit No. 464" and is included in the appendix on p. 3267.)

The CHAIRMAN. To what do you attribute the increased consumption in dairy products?

Mr. BROMLEY. You are asking me, sir? There has been a concerted effort on the part of nutrition and medical authorities during the last several years to improve the dietary of the average person in this country from the viewpoint of protective foods. That effort hasn't been confined to this country; it has been prevalent in every leading nation of the world, as far as I am aware. Naturally, as the consumer becomes better informed as to the merit of certain food in his diet, over a period of time, slowly, gradually, he comes to eat more of those foods.

The American is particularly, shall we say, susceptible to being healthy. We don't like to be in poor health. We like to take good care of ourselves. It is a national habit.

Vegetables: The nutritionists recommended strongly, and they still recommend, that the consumption of vegetables should be increased; dairy products, certainly, and fruits. Sugars I am noncommittal on. Apparently we like sweets. The cereal products, perhaps, have shown the greatest decline because we all do a little less physical work than we used to do. It is the nature of our life.

Mr. McINNERNEY. Right there I might say that these dieticians and these men who tell you what you ought to eat and how you ought to eat it say that for a properly balanced diet the consumption of milk

should be increased 50 percent. Well, we have been trying to get part of that 50 percent for many years.

The CHAIRMAN. You agree that the consumption can be increased?

Mr. McINNERNEY. I don't think there is any question about it. I don't think it can be increased at once. There are certain things that you have to overcome, according to our men who ought to know, that are faults. For instance, there is a thought that milk is fattening. Our head of our laboratory¹ was head of Johns Hopkins, and states definitely it isn't. I don't know whether that is right, but I think everybody ought to try it and see. The ladies like slim figures, and there is a feeling that that has had some sales resistance. However, there is a slow increase in the consumption of milk products, but not in fluid milk, excepting in canned milk.

The CHAIRMAN. What do you think are the chief obstacles to increasing consumption?

Mr. McINNERNEY. Well, I think we have to overcome these ideas. I think price has been a resistance, of course. I think one thing is this constant agitation and implication that the milkmen are making too much profit and gouging the public. Every time the milk raises 1 cent in New York there are big headlines in the paper and milk drops definitely. It comes back in a few days, but temporarily they register a resistance to this increased price. I don't know at what price milk would be freely sold, but after all, the industry has provided a milk at a low price. In New York, for instance, the mayor of New York wanted milk sold for 8 cents. According to the charter of New York, New York City cannot sell milk or go into business, so the mayor appealed to our competitor, Borden, and ourselves, and we, as a matter of public interest, to make milk available to the poor, opened up stations at which we sold milk at 8 cents a quart to anybody that would come. Borden did the same thing. We paid all the expenses and showed a loss, on our part of it, between \$2,500 and \$3,000 a month, and that still continues. The high peak of that business, so far as we are concerned, was about 50,000 quarts a day. It is now down to 35,000.

The reason that it is dropped probably is due to the cheaper price in stores, but the public, I don't believe, will constantly go for milk at any price. They go to stores so much more conveniently.

The CHAIRMAN. Mr. McInnerney, if it is agreeable to you, you will proceed now with the balance of your statement and then the committee will stand in recess until this afternoon. I hate to keep you away from your New York business. Is that satisfactory?

Mr. McINNERNEY. Quite. There is nothing else to do.

(Representative Reece assumed the Chair.)

Acting Chairman REECE. You may proceed, Mr. McInnerney.

Mr. McINNERNEY. Consumers have used more dairy products in their diet not only because the effective merchandising programs of dairy products companies have successfully stressed their great nutritive value, but also because their retail selling price has been lower on the average than those of other foods. This is set forth in chart 9, which I offer.

Mr. BROMLEY. This chart, Mr. Chairman, comes from Department of Agriculture data. It speaks for itself. I don't believe there is

¹ Dr. E. V. McCullum, Baltimore, Md.

any need of particular explanation. The dairy products line, representing retail prices of dairy products, has been consistently below the average consumer prices of all other foods, and both of those lines, the retail prices of dairy products and of all foods combined, have been substantially lower than the line representing the cost of living during the last 9 years.

(The chart referred to was marked "Exhibit No. 465," and is included in the appendix on p. 3268.)

Acting Chairman REECE. May I ask what the basis of comparison is?

Mr. BROMLEY. I misquoted that. This is from the United States Department of Labor, not the Department of Agriculture. They publish this information monthly, Congressman, and it is taken directly from their records.

Mr. McINNERNEY. Of particular interest in this connection are the facts shown in chart 10.

(The chart referred to was marked "Exhibit No. 466" and is included in the appendix on p. 3269.)

You will notice that the American pays less in relation to his purchasing power for a quart of milk than the peoples of any other leading nations. You will also notice that the per capita fluid milk consumption is larger in the United States than in any of these other nations except Sweden. These facts in themselves speak well of the efficiency with which the American system of milk distribution is serving the best interests of the American public.

Mr. BROMLEY. The price of any product in dollars, pounds, shillings, or any other denomination of money isn't representative of its cost to the consumer, as anyone who thinks the matter through can readily see. It is the price of a product, coupled with the average rate of pay commonly received by a large group of people in any particular nation, that determines prices. In other words, price is, really, How long do you have to work to earn whatever you want to buy, whether it is an automobile, refrigerator, bottle of milk, or any other commodity? In that respect the United States surpasses—I beg your pardon; in that respect the cost of a bottle of milk in the United States is less than it is in these other countries. The per capita consumption of milk in the United States compares most favorably with these other countries, but is exceeded by the per capita consumption in Sweden.

Acting Chairman REECE. May I ask if that per capita consumption includes condensed milk also?

Mr. BROMLEY. This pertains to fluid milk and cream. Unavoidably the cream is in there, as the statistical data available aren't sufficiently refined to exclude cream from these per capita milk consumption figures.

Acting Chairman REECE. But how would the comparison of the per capita consumption in the different States be affected if condensed milk were included also?

Mr. BROMLEY. I think that the per capita consumption comparisons indicated here would not be materially changed were you to include evaporated and condensed milk in these data. I do not have in mind the per capita consumption of evaporated milk in these other nations, but I am quite certain that would be a fact.

Acting Chairman REECE. I asked the question, my attention having previously been called to another chart, I believe No. 19,¹ which indicates that the increase in the consumption of evaporated milk in this country has greatly exceeded the increase in the consumption of fluid milk.

Mr. BROMLEY. That is correct, sir. I believe Mr. McInnerney would like to comment on that.

Acting Chairman REECE. I didn't want to bring up a discussion of chart No. 19 at this time.

Mr. BROMLEY. I do not think these comparisons indicated here would be materially changed were you to include consumption of evaporated milk and condensed milk.

Mr. McINNERNEY. As a final example of the efficiency with which milk and dairy-product companies are serving both farmers and consumers, may I refer you to the facts set forth in chart 2? This chart shows the percentage of the retail price received by farmers producing different types of food. Despite their extreme perishability, dairy products rank near the top of the list, in that dairy farmers receive a larger percentage of the consumer's dollar than do producers of most other types of foodstuffs.

Mr. BROMLEY. The data in this chart are copied directly from material supplied by the Department of Agriculture. The only adjustment I have made in the presentation of these products is the exclusion of about 14 products of minor consequence from this list which the Department included in its list. All of those products return farmers less than the 43 percent which milk and dairy products returned them in 1938. In other words, had those other products been in, they would have been in down here some place or other. I excluded them primarily because they all were of lesser consequence.

(The chart referred to was marked "Exhibit No. 467" and is included in the appendix on p. 3270.)

Acting Chairman REECE. That chart, then, would indicate that farmers received a larger percentage of the price which the consumers paid for milk and milk products than of any other product produced on the farm.

Mr. BROMLEY. Not of any other, sir; but of most others, because you see pork, eggs, lamb, hens, and navy beans. These products do return farmers more of the consumer price than dairy products. Dairy products is right here, but dairy products returned farmers more than most of these other products.

Acting Chairman REECE. I misread the chart.

Mr. McINNERNEY. Dairy products is sixth on the list.

Chart 12, showing the break-down of the National Dairy's 1938 sales dollar into major expense classifications presents clearly the small portion remaining for stockholders after farmers, labor, and the Government receive their share.

Mr. BROMLEY. In late years there has been an increasing tendency to show corporations' profit-and-loss sheets in some other fashion than the standard bookkeeping terminology, so that the information pre-

¹ "Exhibit No. 475," introduced, *infra*, p. 3063; appears in appendix on p. 3278.

sented would have more meaning and would be better interpreted by the man who isn't trained in accounting forms and practices. That is all this chart shows. It shows that of our total sales dollar, farmers and other suppliers got 56 cents, that our employees received 18.5 cents, practically; that our operating expenses other than the cost of our materials and wages paid labor amounted to 18.8 cents out of each dollar of sales. That includes power, light, heat, cartons, depreciation, repairs, and a host of other costs.

The Government received $2\frac{4}{10}$ cents out of each dollar of sales, and there remained as our stockholders' equity $3\frac{1}{10}$ cents.

Mr. McINNERNEY. You will notice by that chart that National Dairy paid the farmers in 1938 \$187,000,000. That is approximately \$500,000 a day.

(The chart "How Did National Dairy Use its \$334,300,000 of Sales in 1938" was marked "Exhibit No. 468" and is included in the appendix on p. 3271.)

I have a chart here that shows—I won't read it all but just make two points—that the milk companies, the farmers sold to milk companies for resale in cities as bottled milk and cream: 14,800,000,000. It will also show that farmers sold to creamery butter manufacturers and sold to cheese manufacturers, including butter made in dairy—for dairy farmers—20,000,000. In other words, 14,800,000,000 went into milk, cream, 20,000,000,000 went into butter, and 3,000,000,000 went into cheese. It just shows the relative forms.

CONCENTRATION OF DAIRY PRODUCTION IN NORTH CENTRAL AREA OF UNITED STATES

Mr. McINNERNEY. Chart 13 shows the great concentration of butter, cheese, and evaporated milk production within the borders of 12 North Central States. These States produce more than 70 percent of these products because cost of production, feed, labor, and taxes are lowest in this area.

Since these 12 States support only 30 percent of the total population of the country, it is obvious that the major portion of these manufactured dairy products are shipped from these States to other areas, principally to the eastern seaboard where population density is greater and milk production relatively smaller. I offer this chart.

(The chart referred to was marked "Exhibit No. 469" and is included in the appendix on p. 3272.)

Mr. BROMLEY. This information is supplied by the Department of Agriculture data. I believe it needs no extensive comment. As to butter, cheese, and evaporated milk, three leading manufactured dairy products, the most of those products are produced from milk which is produced in these 12 States right here, north central dairy region. In other words, 70 percent of the production of milk is in that area and 30 percent of the requirements only in that area.

Mr. McINNERNEY. It is obvious that there must be national prices for butter, cheese, and evaporated milk. Nation-wide conditions of supply and demand determine these prices in competitive markets.

The variations in the wholesale prices of these products from one State to another only give effect to differences in transportation costs from the area of production to the area of consumption. Second, the prices farmers receive for milk used to make butter, cheese, and

evaporated milk must fluctuate directly with the Nation-wide selling prices of these products.

Third, the prices farmers producing milk for fluid markets receive for the portion of their milk used to make these three basic products are also fixed by their Nation-wide selling prices, and can be no higher than prices received by farmers in the North Central States, the center of milk production and dairy-product manufacture.

While milk used for the manufacture of butter, cheese, and evaporated milk must be produced under sanitary conditions, the requirements for its production are naturally not as highly developed as for milk designed for sale to consumers in fluid form.

It costs dairy farmers more to produce milk meeting health-department sanitary standards and sold in fluid form than it does milk produced exclusively for manufacturing purposes. Therefore, milk producers are justly entitled to a premium for that portion of their milk which is sold to consumers in bottles. These higher prices were demanded initially by dairy farmers, cooperative associations, so that the farmers could receive a price sufficient to cover the higher cost of production necessitated by compliance with health-department regulations.

This was the genesis of what is now commonly called the classified plan of milk buying. The classified plan merely involves paying farmers different prices for milk, which will reflect the higher cost of producing milk for sale in bottles and at the same time the lower value based on the national market price of milk sold in the form of butter, cheese, or evaporated milk. In addition to being initiated by dairy-farm groups themselves, this classified plan has also been incorporated in the A. A. A. milk orders and licenses. The classified price plan was not conceived by milk dealers or milk companies; it was farmer-initiated, and, properly determined, should reflect the added cost of producing milk in bottled form. The term "properly determined" is important. One notices that farmers producing milk in local restricted milksheds designed primarily for resale in fluid form are in a position of great strength to dictate the price they can receive for milk sold consumers in bottles. This price is commonly called class 1 price. This class 1 price should be higher than the basic value of milk used for manufacturing as determined by competitive markets reflecting national supply-demand conditions by only the added costs of complying with health-department regulations, plus any additional costs resulting from higher feed, labor, or any other higher cost properly chargeable to the cost of producing class 1 milk. The class 1 price should be high enough to encourage the production of sufficient milk to supply fluid consumption requirements. In actual practice, many—I had "most" but I changed it to "many"—class 1 prices today are considerably higher than these additional costs would justify.

This situation and its harmful effect will be developed in my summary and recommendation. The reason for this situation—I have crossed out a little here. Because of the inducement of the high class 1 price for milk which have prevailed in recent years, dairy farmers in the milksheds surrounding metropolitan areas have produced milk far in excess of fluid-sales requirements. This overproduction is accentuated because of the normal variation in production

between June, the month of high production, and November, the month of low production.

Since fluid milk companies must contract to purchase milk from a sufficient number of dairy farmers so that their milk receipts from these farmers will be adequate to cover their maximum bottled-milk sales requirements during the months of minimum production on farms, during the remaining months of the year these companies must, if the farmer is to have a dependable market for production all months of the year, buy, process, and market milk in excess of their fluid-sales requirements.

This excess on surplus has to be made into butter, evaporated milk, or some other milk product. If that isn't clear, if you want to ask any questions, we simply state that we are obligated or obliged to buy in order to take care of our fluid milk requirements. We were obliged to have all the farmers develop more milk in the summer, which we must take. They do develop more milk in the summer in order to supply the market in November and December. That milk is overproduced, or is what we call surplus milk; we take it off the farmers' hands and make it into something, butter, cheese, or whatever it may be.

Chart 14 shows what this excess amounted to on the average of National Dairy fluid milk distributing companies during 1938. As can be seen, about 30 percent of the amount required for fluid sales had to be purchased and manufactured into milk products. This surplus was much larger than normal because of this surplus production. A large milk company is not only a distributor of fluid milk but also a manufacturer of milk products. The company has no choice in the matter. This explains a fundamental dairy problem, namely, why dairy farmers in milksheds surrounding metropolitan areas have to receive different prices for the same identical milk, depending on the form in which it is sold. I submit the chart.

(The chart referred to was marked "Exhibit No. 470" and is included in the appendix on p. 3273.)

Mr. BROMLEY. This chart shows in November approximate amount of milk required for the fluid sales, the fluid requirements of our companies in that month. During the remainder of the year there are varying percentages of production on these farms in excess of what we receive from those farms in November. In other words, if it took 100 farms to supply this amount of milk, and this is representative of our fluid requirements, those same hundred farms in January would produce 108 percent, or 8 percent more than this amount of milk, and so forth, going up to a peak of 64 percent over our fluid requirements in the high month of June.

This excess that Mr. Innerney mentions of 30 percent—this data is all for the year 1938—is considerably larger than normal. It is due to the increased production of milk on farms in recent years.

Acting Chairman REECE. Increased production during the months of increased production; was that reflected in the price situation, that is, either the price paid the producer or the price for which it was sold to the consumers?

Mr. BROMLEY. It is not reflected in the price received by producers for milk sold in fluid form. It can be best explained this way, sir. If we were paying 5 cents a quart for milk we sell in bottles, sell

consumers in a bottle in this month here, and 3 cents a quart for milk we sold for from 2 cents a quart up in the form of dairy products, butter, cheese, and so forth—we will call this 125 percent to make it easy, instead of 126—the farmer would receive the 2 cents for one-fifth of his total production, his 25 percent, and the 5 cents for the other four-fifths of his total shipments to us.

Now, if you weigh those things out, you come to a price somewhat less than 5 cents—if you had a piece of paper you could do it. Come over to June and assume this price the farmer receives for milk sold in bottles is still 5 cents, that the manufacturing price on the average is still 3 cents, then the farmer's net price or blended price or average price, or whatever you wish to call it, would naturally go down because a greater proportion, a larger percentage of his production has to be sold into forms of these manufactured products.

Mr. McINNERNEY. If the committee will permit, I would like to ask Mr. Hovey, our vice president, to continue reading to give me a little breathing spell.

Acting Chairman REECE. I assume that would be satisfactory, but what is the wish of the committee? It is now about 12:30. Do we want to complete the presentation of this statement before we recess? How much longer do you think it will take?

Mr. McINNERNEY. I think it will take not more than 15 minutes.

Acting Chairman REECE. Is it agreeable to the committee for Mr. Hovey to read? (The committee assented.)

Acting Chairman REECE. Mr. Hovey should be sworn.

Mr. Hovey, do you solemnly swear, in the testimony you are about to give, to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HOVEY. I do.

TESTIMONY OF V. F. HOVEY, VICE PRESIDENT, NATIONAL DAIRY PRODUCTS CORPORATION, NEW YORK CITY

Acting Chairman REECE. If you have not done so, will you please state your name and title?

Mr. HOVEY. My name is V. F. Hovey, and, as stated by Mr. McInnerney, I am vice president of National Dairy Products Corporation.

On March 9 and 10, 1939,¹ witnesses introduced by the Federal Trade Commission made several erroneous statements concerning dairy industry economics. As these witnesses were undoubtedly sincere in the statements they made, presumably their misstatements were caused by their lack of understanding of the economics of this industry.

I have already pointed out the falseness of these charges by presenting the real facts of the case in the charts and comments in the preceding part of my statement.

I have pointed out that dairy farmers' income was maintained at materially higher levels during the depression than the farm income from the production of other major crop and livestock commod-

¹ Supra, pp. 2751-2880.

ities; that there is no monopoly in the dairy industry since National Dairy, the largest unit in the industry, handles such a small proportion of the Nation's milk products and cannot control the price to farmers nor the price to consumers in any market; that the operating efficiency of the dairy industry generally compares most favorably with that existing in most other branches of food manufacture and distribution; that National Dairy Products Corporation's earnings are certainly reasonable, and if anything are too small to afford our 75,000 shareholders a reasonable return for the services their company performs; that bottled milk costs relatively less in the United States than in any other leading nation of the world; and that the per capita consumption of milk in this country leads most other nations of the world. Although the actual facts I have presented effectively refute the various charges made before this committee on March 9 and 10, I wish to comment further on some of the more flagrantly erroneous remarks made by these witnesses before your committee.

On March 9 Prof. Frederic C. Howe inserted a table in the record purporting to be a measure of milk companies' spreads in various cities. Professor Howe merely compared the class I farm price with the retail home-delivered price in these cities and called the difference the milk companies' spread. I here insert table A, showing the real spread in milk distribution in those cities Professor Howe included where National Dairy has milk-distributing subsidiaries. You will note that our actual spread on fluid-milk distributing, including retail and wholesale trade, in these cities was 1 cent a quart or about 15 percent less than the spread alleged by Professor Howe.

I think we shouldn't take up the time of the committee, probably, by reading the comparisons on all cities, but we will pick out the city of Detroit because that was the one that received the most attention. The price paid to the farmers f. o. b. city in October 1938 was 3.8 cents per quart. The selling prices, the average selling price, retail and wholesale, was 9.08 cents per quart. Our average spread on all the spread of quarts of milk we delivered in the city of Detroit was 5.28 cents per quart, whereas the testimony of Professor Howe was to the effect that our spread was 6.48, or an overstatement of 1.2 cents.

The same situation is true in connection with the figures on the other cities and the information is contained in the printed statement that has been furnished to you.

Erroneous information such as that read into the record by Professor Howe is detrimental to the best interest of the industry, because the public is led to believe that milk companies' prices are higher than is necessary. Any effort to destroy public confidence in the milk industry by misstatement of fact or uninformed snap judgment is a disservice to the industry, especially to farmers, as such attacks reduce milk consumption.

Another witness on March 9 stated that in reality the blended price milk companies paid for milk represented the real cost to them of the milk they sold in bottles, rather than the class 1 farm price. Referring back to my table, on page 7, of this statement, the falseness of such an assertion readily becomes apparent.

The statement was further made before this committee that milk companies were not interested in promoting the best interests of their

fluid-milk business; that they are chiefly interested in furthering the sale of their branded-milk products, butter, cheese, evaporated milk, and so forth. This statement is completely inaccurate.

Large fluid-milk distributing companies are in the manufacturing end of the dairy industry because they must manufacture the excess milk they receive from farmers if their farmers are to have a continuous, reliable market for all of their production during all months of the year.

The assertion that fluid-milk companies are not interested in promoting the sale of bottled milk is, of course, preposterous. Such financial success as a fluid-milk company can achieve is obtained only by the large volume of its operations. If its volume declines, unit costs become unduly high.

The assertion, made before this committee, that National Dairy companies were interested only in selling bottled milk on retail routes is completely erroneous. As I have said before, National Dairy companies are anxious to sell as much milk as possible and are willing to sell it in any way the public desires, so long as the method is economically sound. National Dairy sells 38 percent of its bottled milk wholesale to stores, restaurants, and so forth, for resale to consumers, and the percentage of this wholesale business has increased rapidly in the last 4 years.

Professor Howe made the further charge that the large milk companies controlling pasteurization plants had been successful in building up a monopoly in fluid-milk distribution in the markets in which they operate. This comment about pasteurization plants permitting monopoly is unfounded. A small pasteurizing plant can be purchased for \$2,000 or \$3,000, and scores of such plants are to be found in practically every city. Thousands of new milk companies, including farmer cooperative milk-distributing companies, have been organized since pasteurization became the commonly accepted practice.

DECLINE IN SALE OF FLUID MILK AND CREAM BY NATIONAL DAIRY

Mr. HOVEY. In further connection with this monopoly charge, I would refer the committee's attention to chart 15 which shows that National Dairy's share of the Nation's total fluid-milk and cream sales has consistently declined since 1930.

Mr. BROMLEY. This chart is compiled by comparing National Dairy fluid-milk sales with the fluid-milk sales for the Nation as a whole in the cities and villages of the United States. In 1930 National Dairy sold 10.2 percent of the national total. Today, last year, 7.6 percent.

(The chart referred to was marked "Exhibit No. 471" and is included in the appendix on p. 3274.)

Mr. HOVEY. Certainly such a downward trend is not characteristic in any monopoly. In addition, chart 16 shows that the number of milk companies competing with National Dairy in markets where our fluid milk distributing subsidiaries carry on their operations practically doubled in number from 1930 to 1935. Here again a 100-percent increase in competition is not characteristic of any monopoly situation. Neither did our ownership of pasteurization plants in these markets prove any deterrent to the establishment of these 2,000 new milk companies during these years.

Mr. BROMLEY. In 1930 National Dairy had in its principal markets about 2,375 fluid-milk competitors, in 1935 it had 4,516. The data stops at 1935 instead of being carried to date as it is some cost to make studies of this character and we made it only during this period of time. Since that time that 4,516 has shown further increases.

This is not an isolated sample. The mere fact that the population of these markets covered by this data is 24,000,000 is certainly representative of the fact that the situation shown here is an accurate reflection of what is going on in the industry.

(The chart referred to was marked "Exhibit No. 472" and is included in the appendix on p. 3275.)

Mr. HOVEY. It is my understanding that monopoly can come about in only three ways; by control of supply, by exclusive patents on processing equipment, or by control of resale prices. None of these conditions have existed in the milk industry and they never will. No corporate monopoly exists in milk distribution, gentlemen, nor can it ever exist, because no company can successfully control, even in a single market, the production of milk, the law of supply and demand, which fixes wholesale prices of milk products, the prices at which farmers sell milk, or the prices at which milk is sold to consumers.

For the last several years dairy farmers, cooperative associations, and Government bodies through orders and licenses have maintained class 1 prices at levels much higher than the basic value of milk used for manufacturing purposes as determined by supply and demand conditions in competitive markets. This came about because, with the general collapse of all commodity prices following 1929, farmer associations in local milksheds attempted to stave off a reduction in their blended prices by maintaining class 1 prices at high levels. When Government bodies commenced regulating class I farm prices, they acceded to farm demands and raised class 1 prices still higher in a vain attempt to increase the blended or net farm price. Reference to chart 17 shows the extent to which class 1 prices (milk sold for bottling) have been maintained at excessively high levels above manufacturing prices.

Mr. BROMLEY. The base in this chart is 1925-29. These lines express the percentage change in the price farmers receive for milk used for bottling, condensing, cheese manufacture, butter manufacture, since that point. The top line for every year is the trend in the price farmers receive for milk used for bottling. You will notice that it is substantially higher than the price that they receive for milk used for these other purposes. This chart is not too well constructed, as it does not show too clearly the point we are making.

We are not comparing the excess this way [pointing to chart]. It is a vertical comparison and, as you can see, the excess in the farm price for milk used for bottling is much higher than the farm price for these other products compared with this average.

(The chart referred to was marked "Exhibit 473" and is included in the appendix on p. 3276.)

Mr. HOVEY. The industry has been harmed by this policy. First, farmers in milksheds were induced to produce more milk in an effort to increase their income, as they were attracted by the high class 1 price.

Second, in the face of this higher production, consumers were purchasing less fluid milk. Less consumer buying was natural because consumer purchasing power was at low ebb as the depression increased in severity. Furthermore, the maintenance of class 1 prices at high levels necessitated artificially high retail prices for bottled milk. The price paid farmers for class 1 milk determines retail prices as the cost of milk is the milk company's largest item of expense.

There could be but one result from the head-on collision of these two conflicting forces. With production increasing and consumption declining, more and more excess or surplus milk was produced in milkshed areas. This meant that larger and larger proportions of the farmers' total production had to be sold at the lower prices farmers were receiving for milk used for manufacturing purposes. Although on the average National Dairy companies had 30 percent surplus last year, in many National Dairy markets as much as 40 or 50 percent of the total milk receipts of our fluid milk companies had to be processed into manufactured dairy products during some months of the year. In other words * * * referring back to the table on page 7 again * * * instead of an 80-20 division between bottled and surplus sales, the ratio might have become 60-40, or even equally divided between fluid and manufacturing uses.

But the cumulative effect of larger production of manufactured dairy products in milkshed areas, where ordinarily most of the milk is used to supply fluid sales requirements, put further strain on the Nation-wide butter, cheese, and evaporated milk markets. With this added production coming on the manufactured dairy product market at a time of reduced consumer purchasing power, conditions of supply and demand forced reductions in the Nation-wide prices of these products.

A further evil in this situation lies in the fact that the wide difference between the class 1 price of 5 cents and the blended or net price of 3.5 cents shown above, permits irresponsible and destructive milk dealers, who sell nothing but fluid milk and supply no market for the farmers' surplus production, to buy milk from farmers for about the blended price of 3.5 cents per quart. Milk is available to them at these prices because of farmers' surplus production. These dealers then compete with responsible milk distributors who are paying the full 5 cents per quart. These irresponsible dealers compete by price cutting. They can cut prices only because they do not pay farmers the full class 1 price. These dealers paying farmers only the blended price for milk and selling in competition with distributors who are paying the full class 1 price demoralize the entire market both for farmer and distributor. The advantage these dealers secure in buying is reflected in selling prices which eventually tear down the entire price structure in the market. This eventually results in lower prices to all farmers. This type of buying by irresponsible dealers has taken millions of dollars annually from producers' milk checks in the past 4 or 5 years in various milksheds throughout the country.

Thus the attempt to maintain class 1 farm prices at unreasonably high levels above the basic value of milk—the price it will bring farmers when used for manufacturing—has stimulated production and at the same time reduced consumption in fluid form to the general demoralization of the entire price structure in the dairy industry, farm price and consumer price alike. No other result could be ex-

pected from a price program that attempts to ignore the law of supply and demand.

The industry can only remedy this situation by facing these self-evident facts. These facts show that the solution of industry problems requires—

First, an intelligent determination of class 1 farm prices in a reasonable relationship to prices farmers receive for milk used to make manufactured-milk products, so that production and consumption of milk for fluid use will tend to be in a more normal balance.

Second, a recognition of the fact that the consumer is the final arbiter of farm income; that if prices are not sufficiently reasonable and more nearly competitive with the price of evaporated milk to induce the purchase of maximum amounts of bottled milk, the farmer will lose his best market.

I shall comment on each of these main points briefly.

The going price paid farmers by condenseries for milk to be manufactured into evaporated milk gives effect to national supply-demand conditions existing in manufactured-milk products and is the best price to which to tie class 1 farm prices. Evaporated milk is fluid milk's chief competitor. Chart 18 shows graphically how far out of line class 1 prices are today from this basic price. In Boston in December, for instance, raw milk before processing, bottling, and delivery, cost milk-distributing companies $1\frac{1}{4}$ cents more per quart f. o. b. their city plant platform than the wholesale price grocers pay for a can of evaporated milk, approximately equivalent in content to a quart of fluid milk. Under these circumstances it is unavoidable that retail bottled milk prices are much higher than equivalent evaporated milk prices.

(The chart referred to was marked "Exhibit No. 474" and is included in the appendix on p. 3277.)

I wish to make myself clear on this point. I do not say that the class 1 price should be the same as the condensery price, but I do say that the class 1 price should have a sound economic relationship to the price condenseries pay farmers, which is based on the current market prices for butter and cheese. The class 1 price should be higher by an amount sufficient to reflect the added cost of production due to compliance with board of health regulations, extra cost of transportation to the fluid market, and by the premium that is necessary to maintain an adequate quantity of milk for fluid consumption. It is understood that these factors may vary with each market.

I have described in some detail how artificially high and arbitrary class 1 prices stimulate production in milksheds, reduce bottled milk consumption, and depress the farm price of milk used for manufacturing purposes through the diversion of large amounts of milk produced primarily for consumption in fluid form into manufacture as milk products.

This vicious circle is particularly detrimental to the income of the farmers producing milk primarily for manufacturing purposes, and more than 60 percent of the dairy farmers of the Nation produce milk directly for manufacture into milk products.

The consumer will not be encouraged to drink bottled milk if the price he pays does not seem reasonable. The comparatively high retail prices of the last few years, caused by payment of high class 1 prices to farmers, has reduced consumption of fluid milk and stimu-

lated the purchase of evaporated milk. The dairy farmer is closing his class 1 bottled-milk market, his best market, by attempting to obtain an uneconomically high price for his product.

Mr. BROMLEY. This chart shows the trend in the per capita consumption of evaporated milk and fluid milk since 1930. The per capita consumption of evaporated milk since that year has increased 37 percent, the per capita consumption of fluid milk naturally declining to 3 $\frac{1}{4}$, due to the economic disasters which were afflicting the country. It went down. Since then it has tended to go up. There isn't any real downward trend in the consumption, but the trouble is there is no decided upward trend, as there is in the case of evaporated milk.

(The chart referred to was marked "Exhibit No. 475" and is included in the appendix on p. 3278.)

Mr. HOVEY. If the dairy farmer understood these facts, I feel certain he would act quickly to help put the industry's house in order. The American farmer does not expect the consumer to pay unduly high prices for milk. Neither does the farmer wish to mortgage his future prosperity by trying to get unjustifiably high prices today at the expense of losing his fluid-milk market.

Were class 1 farm prices maintained at a sound economic level above condensery prices—(1) the maximum amount of bottled milk would be sold at lower prices to consumers; (2) milk production would be more in line with demand; (3) the problem of growing surpluses, depressing both the farm-price structure on milk used for manufacturing purposes as well as the blended price of farmers producing milk for consumption in bottles, would be relieved and eventually eliminated; and (4) dairy farm income would be increased.

The Federal and State Governments and producer groups—this is added to the printed statement—have had the power to establish class 1 prices arbitrarily. I think it follows that the same agencies have the power to establish prices on a sound basis, and that they should have an opportunity to do so and be expected to do so. Undoubtedly all desire that prices arbitrarily established shall be established on a basis fair to producers, consumers, and distributors.

If producer groups, because of pressure from membership or for any other reason, find it impossible in any market to establish prices on a sound basis, then the alternative will be to give all producers who desire to ship to the market and who produce milk of equal quality the opportunity of so doing.

Acting Chairman REECE. It is now almost 1 o'clock. What time, Mr. Ballinger, would it be convenient from your standpoint to reassemble?

Mr. BALLINGER. Two-thirty.

Acting Chairman REECE. The committee will stand adjourned until 2:30.

(Whereupon, at 12:52 p. m., a recess was taken until 2:30 of the same day.)

AFTERNOON SESSION

The committee resumed at 2:45 p. m. on the expiration of the recess.

The CHAIRMAN. The committee will please come to order. Was your direct statement finished this morning, Mr. McInnerney?

Mr. McINNERNEY. I would like to call attention to the fact that although I have only read excerpts from the statement submitted to you, I would like to establish definitely that the entire statement we submitted will be in the record, and not only the portion of the statement that I read before the committee.

The CHAIRMAN. You want your statement as made this morning amplified so as to contain all the material in the printed statement which you omitted in your original presentation?

Mr. McINNERNEY. Yes.

The CHAIRMAN. That will be understood.

Mr. McINNERNEY. There is one more in addition to the statements that we submitted to you which I gave you, and we read into the record, which I would like to read again. In attempting to offer a solution or a suggestion of a solution which we think is sound. In other words, we have a recommendation for this that I would like to definitely establish. It was read, but you were not present. It is very short.

RECOMMENDATION FOR SOUND PRICING OFFERED

Mr. McINNERNEY. The Federal and State Governments and producer groups have had the power to establish class 1 prices arbitrarily. I think it follows that the same agencies have the power to establish prices on a sound basis and they should have an opportunity to do so and be expected to do so. Undoubtedly all desire that prices arbitrarily established shall be established on a basis fair to producers, consumers, and distributors. If producer groups, because of pressure from membership or for any other reason, find it impossible in any market to establish prices on a sound basis, then the alternative will be to give all producers who desire to ship to the market and who produce milk of equal quality the opportunity of so doing.

I don't know whether that statement was understood by the committee, and if it isn't I shall be glad to enlarge upon it and tell you what we have in mind.

The CHAIRMAN. All right. Let's take the first sentence.

I think it follows that the same agencies, being the Federal and State Governments and producer groups, have the power to establish prices on a sound basis and that they should have an opportunity to do so, and be expected to do so.

Do you mean by that that the distributor should not have a part in fixing the price?

Mr. McINNERNEY. No, I do not; but we haven't had much part. I would welcome an opportunity to have a part in fixing the price.

The CHAIRMAN. The complaint has been made from time to time that the distributors have really been the essential factor in fixing the price.

Mr. McINNERNEY. To the farmer?

The CHAIRMAN. Yes; to the farmer and to the consumer, and that it was cause of complaint with the price that producer groups were organized. What basis is there for that?

Mr. McINNERNEY. We have definitely the price fixed to the consumer. We do have the price-fixing to the consumer.

The CHAIRMAN. You do have the power to fix the price to the consumer?

Mr. McINNERNEY. We do have that, but when it comes—of course, for our own companies. That is understood; we have nothing to do with anybody else.

The CHAIRMAN. Mr. Gordon was just afraid I was going to lead you into a trap.

Mr. McINNERNEY. I am not at all afraid of that. I know you wouldn't.

The CHAIRMAN. I am not afraid you can be led into a trap.

Mr. McINNERNEY. But what I mean is that while our separate companies do meet with producer groups and we have repeatedly called their attention to this situation, we have had no encouragement up to the present time to believe, maybe because of this last break-down of the Government situation, may have registered a little more, we do—I mean our men; I never have in any single instance, but our men do meet producer groups and attempt to establish a price, but the power to establish the price—

The CHAIRMAN (interposing). Just how do you do that when you meet with the producer groups to establish the price? Just what is done?

Mr. McINNERNEY. Well, as I never have been to one, may I ask Mr. Hovey, who has been sworn, to relate that situation?

The CHAIRMAN. All right. Will you be sworn?

Mr. HOVEY. I am vice president of National Dairy Products Corp. I was sworn this morning.

Mr. McINNERNEY. I would like to also say of Mr. Hovey that he is president of the General Ice Cream Co. and vice president of the National Dairy; he has been in the milk business all his life.

Mr. HOVEY. Where arbitrarily high prices are in effect, almost invariably such prices are the result of the control of supply by the producer, cooperative producer groups, or result from Government control. It is a fact, Mr. Chairman, that during the periods when farmers were not well organized in some markets, groups of producers would compete with each other in the sale of their milk. That usually resulted in unsatisfactory prices to producers and did result in an urge for the development of cooperative producer organizations so that they might have control of the supply and control of the price at which their product would be sold.

Today throughout practically all of the territory in which we operate we deal either with cooperative producer groups in negotiating a price, or the price is fixed by governmental agency. When we meet with the representatives of producer organizations they obviously seek to get as high a price as possible. We urge that the price should be kept within reasonable limits, that the resale price shall not be too high. The final price is nearly always the result of a compromise. The distributor seeking lower prices that he may sell cheaper, the producer seeking higher prices.

The CHAIRMAN. Now, who sits with you on behalf of the distributors?

Mr. HOVEY. Usually the buyers from that particular cooperative organization.

The CHAIRMAN. The buyers from the cooperative? Do you mean the producers' cooperative?

Mr. HOVEY. The producers' cooperative. The buyers who buy from a single producer cooperative association will meet with the representatives of that producer cooperative association.

The CHAIRMAN. Now, are all the distributors represented in these discussions?

Mr. HOVEY. Not necessarily. Usually only the buyers from that particular cooperative group and many times only a small percentage of those buyers.

The CHAIRMAN. Well, now whom do you mean by the buyers from the group? You mean representatives—

Mr. HOVEY. The distributor who buys milk from the producers.

The CHAIRMAN. I beg pardon.

Mr. HOVEY. The milk distributor who buys milk.

The CHAIRMAN. Are there more than one?

Mr. HOVEY. Usually the cooperative organizations sell to as many distributors as possible.

The CHAIRMAN. So that as many distributors as they can get together will assemble in these meetings? That is the question I am asking.

Mr. HOVEY. Our own experience has been that the representatives of the cooperative associations have come to the offices of the officers of our individual companies and have discussed—have negotiated with us prices to be paid for their milk.

The CHAIRMAN. A moment ago I thought you said that the buyer from the particular cooperative would assemble to negotiate the price.

Mr. HOVEY. Senator, in the territory in which I operate we deal under control board—under State control boards. In that territory when prices are being discussed they have the administrator of the State control board, representatives of the producer groups, representatives of the distributor groups.

The CHAIRMAN. So that you—

Mr. HOVEY (interposing). The price in that case is finally determined by the State administrator.

The CHAIRMAN. In those States, then, or in those areas where you have a milk law which attempts to regulate the industry and control the price, you have a system by which the representatives of the producers upon the one hand and the representatives of as many distributors as want to assemble upon the other, will sit together and try to reach a price. Is that correct?

Mr. HOVEY. That is true, and in New York State we have been operating until very recently under the Rogers-Allen bill, which specifically provided for dealer or distributor bargaining agencies and producer bargaining agencies.

The CHAIRMAN. Now—

Mr. HOVEY. All of those groups would meet.

The CHAIRMAN. Before these laws were established, before these laws were passed, what was the practice?

Mr. HOVEY. That goes back a number of years in the particular territory in which I operate.

The CHAIRMAN. You operate in New York?

Mr. McINNERNEY. In New York State, not New York City.

Mr. HOVEY. In that territory we have bought most of our milk from the Dairymen's League, cooperative association. That organi-

zation determines the price at which it is willing to sell milk. That price is usually—the price they quote is usually uniform to all of their buyers. They come to us and at times discuss with us the price at which their milk will be sold to us. If we object, of course we have the opportunity of buying somewhere else. We buy from the Dairymen's League. We have to pay the price they ask.

The CHAIRMAN. Well, the condition which you describe is one in which the producers, upon the one hand, have formed an organization and appointed agents to speak for that organization?

Mr. HOVEY. That is true.

The CHAIRMAN. And when those agents speak they speak for every member of the group?

Mr. HOVEY. That is true.

The CHAIRMAN. Now they sit down with the representatives of the distributors. When those representatives on the part of the distributor speak, they also speak for all of the distributors, do they not?

Mr. HOVEY. Where there is a bargaining agency under the Rogers-Allen bill that is true, Senator.

The CHAIRMAN. Now, before these bargaining agencies were established, what was the price?

Mr. HOVEY. Senator, do I understand that you mean specifically what was the price? Of course, the price varied. What was the practice?

The CHAIRMAN. The practice; yes.

Mr. HOVEY. Well, when not dealing with a producer organization each individual buyer went out and usually had field men who he sent into the country to contact individual producers, telling them that he wanted to buy their milk and telling the producers the basis upon which they were willing to buy. That was usually bought only by negotiation between the distributor and the individual producer.

The CHAIRMAN. And in those circumstances?

Mr. HOVEY. And the individual producers.

The CHAIRMAN. And in those circumstances, dealing with the individual producer, could you get a better price than you have been able to get from agents of the cooperatives? A better price from your point of view?

Mr. HOVEY. I think that prices were not so satisfactory to producers during that period.

The CHAIRMAN. So that the producers' organization has actually resulted in raising the price which the producer gets.

Mr. HOVEY. That is undoubtedly true.

The CHAIRMAN. Well, now, what has been the effect upon the consumer?

Mr. HOVEY. It has resulted in higher prices to the consumer.

The CHAIRMAN. When you were able to buy your milk by these individual contracts, was the price to the consumer lower than it has been since?

Mr. HOVEY. I think so; but, Senator, in most territories that goes back so many years that it is hard to establish a comparison. I think the Dairymen's League¹ was formed at least as far back as 1916, and it would be difficult to make a comparison of much value with a period prior to 1916.

¹ Producers' cooperative in New York State.

The CHAIRMAN. Do the distributors, when they agree upon the price, which is to be paid to the producers, find it difficult at all to stand by the price so agreed upon?

Mr. HOVEY. The price to be paid to the producer?

The CHAIRMAN. Yes.

Mr. HOVEY. So far as I know they all pay what they agree to pay.

The CHAIRMAN. So that you have a definite price fixed by the bargaining agents of the producers, and that same price definitely accepted by the bargaining agencies for the distributors?

Mr. HOVEY. That is true, if it works. Of course, the Nunan-Allen bill¹ is not working at the present time, so that that sort of thing has been discontinued, Senator. The law was held unconstitutional, temporarily.

The CHAIRMAN. Oh. Then what happens now?

Mr. HOVEY. Each buyer is buying milk from his own group of producers. In the case of the larger companies I think they have continued to purchase milk from the producers whom they have served for many years, and they have negotiated prices independently with that group of producers.

The CHAIRMAN. Is there any difference in the price paid by different distributors to producers?

Mr. HOVEY. Oh, yes.

The CHAIRMAN. That varies now?

Mr. HOVEY. That price varies.

The CHAIRMAN. What is the variation, approximately? I don't expect you to have the exact figures.

Mr. HOVEY. May I say, Senator, that with a high class 1 price the distributor who buys milk and pays the high class 1 price and at the same time handles considerable surplus will of course return to his producers a blended price much lower than the class 1 price. There are in nearly every market today those distributors who do not care to handle surplus, do not care to assume that obligation, and who will go out and buy their approximate needs for their fluid milk requirements at about the blended price paid by the company who handles this surplus, and that can very easily result in a difference of 50 or 60 cents per hundred pounds, and may be in some cases much more than that.

The CHAIRMAN. Then there is no standard price now paid by the distributors since the suspension of the operation of this law?

Mr. HOVEY. In the New York City market, no, there is not.

The CHAIRMAN. What is your opinion of the effect upon the milk market of this suspension of that law?

Mr. HOVEY. The market is in chaotic condition today and the price to producers is unfortunately low.

The CHAIRMAN. And you think that something should be done about it.

Mr. HOVEY. We do.

The CHAIRMAN. What do you think should be done about it?

¹ The Nunan-Allen bill sought to correct the defects cited by the New York State court in declaring unconstitutional the Rogers-Allen bill which, among other things, purposed to set up a producers' board and a distributors' board to fix the price of milk in New York State.

DESIRABILITY OF GOVERNMENT CONTROL IN FIXING SOUND PRICE BASIS

Mr. HOVEY. We believe that there are conditions under which Government control is desirable.

Senator KING. State or National.

Mr. HOVEY. Probably State and National, where interstate milk and intrastate milk both are involved.

The CHAIRMAN. Mr. McInnerney, do you agree with that statement?

Mr. McINNERNEY. As an emergency I would agree with it, but not as a permanent thing; no.

The CHAIRMAN. How are you going to define the termination of the emergency and the appearance of the regular order? Let Mr. McInnerney answer that question. You see what I have in mind is this. I will give you just a little more time. This morning in our colloquy you spoke very definitely against any form, degree, or manner of Government intervention in this or any other industry. Now, your vice president, whom you have called upon to answer a question in your name, has expressly stated that it is his opinion that it would be desirable to have some form of Government intervention, both State and National. What is your opinion about the two?

Mr. McINNERNEY. He did not finish. He was going to qualify, I assume.

The CHAIRMAN. Let him make his qualification, certainly. Let's get the whole story.

Mr. HOVEY. If I may be permitted to do so.

We believe that Federal and State control is desirable under certain conditions. We believe that governmental control is probably justified as an emergency measure, we doubt that it is justified as a permanent thing. But when, as in the case of New York City, we have had control of producer prices either through the cooperative organizations or through the government—

Senator KING (interposing). That was State government, wasn't it, in New York City?

Mr. HOVEY. State government; and they have recently tried Federal control as well, Senator.

Senator KING. You mean the Agriculture Department has tried to impose authority upon the prices there?

Mr. HOVEY. There has been a Federal order, Senator.

Senator KING. What?

Mr. McINNERNEY. The Federal order was declared unconstitutional in the State of New York by Judge Cooper. The same Federal order under the same conditions in Massachusetts was declared constitutional by a Federal judge. We had two questions answered entirely in opposite direction, and that is now up before the Supreme Court.¹

Mr. HOVEY. Where we have had arbitrarily high class 1 prices as a result of control either by producer groups or governmental agency, it is obvious producers have been encouraged to increase production, and we are today faced with great surpluses as a result partly of artificial control, certainly, whereas producer prices, if they cannot be

¹ See footnote 15, appendix, p. 3158.

controlled by producer groups, Government control is necessary if a reasonable and necessary class 1 premium is to be maintained.

We know the farmers are entitled to a premium for such milk as is used in fluid sales; we know they need it, and we are in sympathy with some program which will help them to get the premium to which they are entitled and which they do need. However, control will be justified only with the sound pricing of milk, and if control can be made effective, meaning by that enforcement—something we have never yet had—fair enforcement, so that all will be required to comply with the order.

The CHAIRMAN. Of course, that answer embodies two phases. First, that you are for Government control.

Mr. HOVEY. In emergencies.

The CHAIRMAN.—But then you go further and say this Government control is proper enough, provided it results in fixing a sound basis of price. That, of course, goes to the manner in which the authority is exercised. Nationally authority is not always properly exercised. It is not properly exercised by government, it is not always properly exercised even by business executives. So what we are trying to get at now is the principle upon which to base a judgment as to whether or not there should be any control, and by whom it should be exercised if it is exercised.

Mr. HOVEY. We have attempted to answer that, Senator. We have stated that in emergency situations, such as exist in New York City at the present time, control is justified.

The CHAIRMAN. How are you going to determine when the emergency exists? A little while ago you testified that before the State undertook to exercise control, and the distributors were buying their milk in the field, the producers were getting considerably less for their product than they are getting now.

Mr. HOVEY. And that is exactly the situation in which we find ourselves once again.

The CHAIRMAN. Yes; because the Government intervention has been lifted.

Mr. HOVEY. Yes; but, Senator, in the meantime we have had artificial prices as a result of control, either by producer groups or by governmental agencies. As a result of their control, class 1 prices have been established at very artificially high levels, which have resulted in a great increase in production and a great increase in surplus. It is our contention that control would be justified, provided control is of a nature which will undo the things, the unfortunate things, that control itself was responsible for. By that I mean that we assume that sound pricing would result in bringing production more nearly in balance with fluid-milk consumption.

We take the position that during such period of adjustment governmental control would be justified. We don't believe the farmers should be encouraged to greatly increase production and then all of a sudden have control taken away. It leaves them in a helpless state. We know that they are entitled to a premium, and we want to do our parts to see that they get that premium.

The CHAIRMAN. How will you determine what this sound pricing is?

Mr. HOVEY. We are quite certain that everyone in the industry knows that a class 1 price of \$3 is not a sound price when the value

of manufactured milk is \$1. We are taking the position that a sound price is the value of milk used in the production of evaporated milk, and that is about 130 percent of the value of milk going into butter and cheese; so that that is already a premium price. We believe that in addition to that there should be another premium to cover all additional costs that are necessary to produce and deliver milk of high quality under fine sanitary control. There are additional costs, and we believe that the farmer is entitled to a premium to cover all the additional costs, made necessary in the production and delivery of milk for the fluid-milk market.

We think that that could fairly well be left to fair-minded producers, because we think that they can't possibly, on a cost basis, justify ridiculous premiums. We think they couldn't justify any more than a premium that would appear to be reasonable to all factors in the industry.

The CHAIRMAN. Do you advocate the abolition of cooperatives?

Mr. HOVEY. Not at all.

The CHAIRMAN. You are willing to concede that the producers should be organized?

Mr. HOVEY. We believe that producer organizations are necessary to the producers.

The CHAIRMAN. Then your statement amounts to a declaration that in your opinion the price of grade 1 or class 1 milk is too high.

Mr. HOVEY. That is true.

Mr. McINNERNEY. That is the basis of our whole contention. You see, the A. A. A. law does not set up an economic basis for price fixing. They go back to a parity-price basis, which we don't think is sound.

The CHAIRMAN. Then your recommendation is that the Government should continue to try to adjust the price, but should do it on a different formula from that which is now followed.

Mr. McINNERNEY. We think the emergency is so serious, the price of milk is so unfairly low, that the farmer isn't getting really a square deal, so to speak, and unless the Government or some Federal or State agency—when the government of the State of New York had a control law we were not objecting to the law. We didn't particularly like it, but we demanded the enforcement of the law. There was no enforcement. It broke down purely and entirely because of lack of enforcement. The two companies who have a regard for law were penalized, whereas what we call in the market the chiseler bought below the control price and we had to meet that unfairly, and as a result of it we lost from 10 to 30 percent of our business.

The CHAIRMAN. When the emergency is terminated and the control, the social control or whatever you call it, is suspended, as it has been suspended now in the State of New York, what ground have you to believe that the chaotic condition described by your associate would not be immediately returned to?

Mr. McINNERNEY. We think that if the control were removed, by that time the farmer would have become educated to the actual situation, and we believe that he would understand that there should be a parity of some basis between the condensery price and the fluid price. Now, you get 2, 3, or 4 cents, as we established in our charts this morning. When you get a situation like that, every farmer does not belong to a cooperative. Many farmers are independent. This

farmer, by virtue of his independence, has maybe a relatively small amount of business. With us, we couldn't make a contract with that man. We are now buying a lot of that milk, but we have such a requirement to protect seven and a half million people in the city of New York that we have to buy the milk from the man who controls it, such as the various producers' organizations. One man, as indicated here, Mr. Johnson, who said he had 5 percent of the business in Detroit, if he had the combined business of the larger distributors in Detroit, he couldn't get any milk, because it isn't there.

He gets, as we understand it, a price, while he may pay a little more. We don't agree he does, but it is conceivable he could ask a blended price; he could put the blended price of milk into a bottle. We cannot. We can put only class 1 milk in a bottle. Class 1 milk, then, costs us a cent more. He has that edge. If he had to buy as much milk as we do, he wouldn't be able to get his supply.

Our obligation to the public in a city of 1,000,000 people is to have milk when they need it. I don't know enough about the market, but the individual may have to go farther afield. He may be getting milk within 50 miles. Let's say he does get it within 50 miles. If he had to go 150 miles, the added cost of transferring that milk, the cost of carrying it for that other 100 miles, he couldn't possibly maintain his price. At least we don't think he can.

The CHAIRMAN. In other words, under present conditions, it is necessary for distributors, particularly the larger they get, to buy from organizations of producers.

Mr. McINNERNEY. I have always maintained—of course, I have never been a milk buyer—that the basis of buying milk is unsound, because we are penalized. In other words, let's assume we had no manufactured milk, and all the milk we bought in a city like New York was under class 1 price. That price to the farmer would be very high. The price, the blended price, is diluted in proportion to the amount we take that goes in the manufactured products. I have always contended when the largest buyer of milk paid more for milk than anybody else, the farmer is better off in dealing with us, because we have a larger proportion of fluid-milk business to our total sales than most of the others, unless it is all fluid business.

The CHAIRMAN. Your contention is that while you acknowledge it is good for the farmer to organize, because thereby he is more able to protect the price that he gets, it is also better for the distributors to be organized on a large scale.

Mr. McINNERNEY. No; I don't know of any instance where the distributors are organized.

NATIONAL DAIRY PRODUCTS CORPORATION COMPOSED OF 109 CORPORATIONS

The CHAIRMAN. Is not the National Dairy Products Corporation an organization of distributors?

Mr. McINNERNEY. Yes.

The CHAIRMAN. How many subsidiaries do you have?

Mr. McINNERNEY. I think at the present time it is 109, of which 16 are in Europe, so we have net in America 93 subsidiaries, not all fluid-milk companies, but they are operating companies.

The CHAIRMAN. Some engaged in distributing fluid milk, some evaporated milk, some cheese, and likewise?

Mr. McINNERNEY. We can buy in New York our automobiles or our tires through a buying organization, but we couldn't buy in New York for all the distributing companies we have. The local conditions in each market are different.

The CHAIRMAN. But you have an organization of 109 separate corporations.

Mr. McINNERNEY. Ninety-three in this country, please.

The CHAIRMAN. Are they all engaged in national business?

Mr. McINNERNEY. No; many of them are local.

The CHAIRMAN. Most of them are local, are they not?

Mr. McINNERNEY. Most of them are local.

The CHAIRMAN. Is the collection and distribution of milk a national or a local business?

Mr. McINNERNEY. Local.

The CHAIRMAN. So that the part which the National Dairy Products Corporation plays in this organization of your 93 companies is one of managing 93 separate local enterprises.

Mr. McINNERNEY. No; National Dairy does not manage these companies at all.

The CHAIRMAN. Oh.

Mr. McINNERNEY. Each company is a unit by itself. It has its president and officers and directors, and they operate their own business, independently, 99 percent. I said this morning that I assumed if I wanted to go into Cleveland and sent for the president and said I didn't like something, I assume he would listen to me, because after all, National Dairy owns the stock in that company. I never have done it, but I am not telling you that I wouldn't have that within my province if I wished to.

The CHAIRMAN. What would happen if he didn't do what you suggested to him?

Mr. McINNERNEY. Well, Senator, they hold an election every year, and the proxies for that election, through stockholders, is generally given to the officer to vote himself.

The CHAIRMAN. Who holds the election?

Mr. McINNERNEY. It is held wherever they are. They call the election, just the same as we do of National Dairy.

The CHAIRMAN. That is, the stockholders.

Mr. McINNERNEY. National Dairy.

The CHAIRMAN. It is a holding company?

Mr. McINNERNEY. Yes.

The CHAIRMAN. And it holds the controlling interest in all of these subsidiaries?

Mr. McINNERNEY. Absolutely.

The CHAIRMAN. I suppose it holds all but the necessary voting stock to qualify directors.

Mr. McINNERNEY. Yes.

The CHAIRMAN. But it so manages these affairs that the officers who are chosen by the proxies are free from control from the headquarters of National Dairy Products?

Mr. McINNERNEY. Well, we never have exercised control. For instance, we don't designate the directors in these local companies. I am not evading the issue that we couldn't, but I say we never have; in 15 years I never have voted a single share of the National Dairy stock at a corporate meeting.

The CHAIRMAN. That may be the reason why in the city of Washington there is no differential between the price of delivered milk and the price of milk at a store, whereas in New York City there is a differential. Is that correct?

Mr. McINNERNEY. I guess that is correct; but, Senator, there is a moot question. I don't hesitate to say, as a matter of economics, that during the early days of the administration here, in which Mr. Peak represented the industry, I advocated a differential of 1 cent. We don't find that all our men agree with us or with me on that.

The CHAIRMAN. But in Washington the Chevy Chase Dairy, whoever is exercising the proxy there, didn't choose to put into effect a differential.

Mr. McINNERNEY. I don't know the local condition here in Washington. I don't know whether anyone here does, if any of our group does know: I don't think Mr. Brawner, who is head of that—I assume he dominates the policy. In Pennsylvania, for instance, there is a law that does not permit—the milk commission in Pennsylvania does not permit—in the cities a differential between the wagon price and the store price, except in Philadelphia.

The CHAIRMAN. But the point of this question is merely that you, as the head of National Dairy Products, don't attempt to tell the gentleman in control in Washington whether he should or should not have a differential.

Mr. McINNERNEY. No, sir.

The CHAIRMAN. And you don't exercise any control over any other policy?

Mr. McINNERNEY. Well, I would say as to policy we generally allow policies in existence to continue. I think any existing policy would be discussed with me and our board before there would be any change. It is sort of understood that they will go along with the existing policy; and if they want to change that policy, we have other interests with which it might conflict or overlap, and it would be discussed.

The CHAIRMAN. Then they do not have complete local autonomy.

Mr. McINNERNEY. They have always had. We never had an instance in which that question has been up.

The CHAIRMAN. You can't think of any instance now in which the central board of directors of the National Dairy Products Corp. has intervened in any matter of local policy by any one of these 93 subsidiaries?

Mr. McINNERNEY. No, sir.

Senator, a point was just brought up here. Our board is made up about 95 percent of our heads of our operating companies. We have, I think, 2 or 3 so-called outside directors of the 30 directors. All, with the exception of 1 or 2, are heads of companies in the field.

The CHAIRMAN. But when they assemble as a board of directors they do not, if I understand your testimony correctly, undertake to lay down any program of intervention with the local management of the 93 local companies.

Mr. McINNERNEY. There has been no occasion for it.

The CHAIRMAN. Inasmuch as there is complete local autonomy then in the local management of these local subsidiaries, what does National Dairy Products, Inc., contribute to the local company?

Mr. McINNERNEY. Well, one point particularly. We take care of them in their financial needs, and there has been much occasion for it

in the past few years. A local company does not borrow from a local bank. If the situation in Cleveland, for instance, requires more cash, or whatever they might need, we would loan it to them. We believe that one of the reasons for the formation of National Dairy, was that a diffuse or widely spread interest would help carry over those spots in which there was distress. That has been the case.

The CHAIRMAN. Do you think that they couldn't get financial aid if you weren't in the picture?

Mr. McINNERNEY. I know of instances when, I am sure, as a banking proposition they would have had difficulty. I doubt if they could—I have written up here a statement. I thought this question would be asked, and if you don't mind I am sort of anxious to get it the way I would say it.

The milk business requires a substantial capital investment for necessary plant and equipment. The affiliation of dairy products businesses into one organization has resulted in a distribution of the risk, stabilization of employment, development of the research products, betterment of manufacturing and processing operations, saving in costs of financing and improving of plant and housekeeping with quality control of work.

In other words, we have something over 100 laboratories, but we have two very extensive, or three, laboratories, one in Newtonville, Mass., one in Chicago, Ill., and one in Baltimore. The cost of operating or running those research laboratories and whatever work we have is maintained by the National Dairy and is not charged to the individual units. The cost is such that the individual units would have difficulty in doing that.

Senator KING. My recollection, Mr. McInnerney, is that when the investigation of the milk situation in the District of Columbia was being conducted,¹ among the benefits claimed by the National Dairy Corp. by reason of its existence and the connection between the local company and that, was the furnishing to the local organization whatever benefits resulted from the extensive researches which were being conducted by the national organization.

Mr. McINNERNEY. We think that is so.

Senator KING. And my recollection is that you also contended you furnished capital to extend business and to replace obsolete machinery and to introduce more modern methods and more modern machinery in order to make the business more effective and to better serve the public. Is that general with respect to other local companies?

Mr. McINNERNEY. Absolutely. The central buying organization, central advertising organization, can produce or effect many economies through quantities, oftentimes, and distribution. We can't always get up, for instance, an advertising campaign that will fit all markets, window trims, and all that sort of thing. Of some things we buy 10,000, of others 100,000.

The CHAIRMAN. I have before me chart 16,² which shows the number of milk distributors for the years 1930 to 1935, inclusive.

To what do you attribute this growth of the number of distributors?

Mr. McINNERNEY. Well, my own feeling is that in many of these instances they are able to buy to better advantage than we have been able to.

¹ See footnote 2, *supra*, p. 2817.

² "Exhibit No. 472," appendix, p. 3275.

The CHAIRMAN. They have been able to do what?

Mr. McINNERNEY. To buy at better advantage. For instance, Mr. Beach here the other day said they had 85 percent of the milk in the Detroit area. That means there must be 15 percent of the milk free.

The CHAIRMAN. Is there any possibility that by reason of the fact that you just described a few moments ago that the milk business is essentially a local business, that the local companies can operate more efficiently than a large national corporation like yours?

Mr. McINNERNEY. I don't subscribe to that at all. As a matter of fact I don't agree to it.

The CHAIRMAN. Then let us turn to chart No. 1.¹

Mr. McINNERNEY: You said operate efficiently?

The CHAIRMAN. That is right. Chart No. 1, lower part. You say that for the National Dairy Products Corporation and its subsidiaries in 1935 it was necessary for you to sell 157 quarts for a dollar of profit, before you could make a dollar of profit it was necessary for you in 1930 to sell 157 quarts. In 1938 before you could make a dollar it was necessary for you to sell 396 quarts. Would it be possible for all these local corporations, local distributors, to get into the business and to take a share of the national business if they weren't able to make a better showing than that?

Mr. McINNERNEY. Well, there would be two factors there. One would be whether they were buying to better advantage. The other would be whether their labor cost would be equal to ours.

The CHAIRMAN. Would it be possible for a small local distributor to stay in business if it was necessary for him to sell 398 quarts before he could make a dollar profit?

Mr. McINNERNEY. Depends a good deal on his quartage. If a man had one route and he was selling 600 quarts, and so forth, he would make \$2 a day. Of course we are at a little disadvantage against the small company in the matter of wage, labor. Most of our unions don't have any 7-day week—but a man in business for himself could have. There are many factors that would help him. Then a man can start a route with very little or no money and he can make a living—he may not have a job at all; he may not make over \$20 or \$25 a week, and we might have to pay him \$40 if he worked for us, so he can go into business and do fairly well. It takes a little capital for him, so that he has that edge, but I don't think—we don't think there is anybody can handle a quart of milk any more economically than we can.

The CHAIRMAN. Do you think there is any possibility that by reason of the fact that the National Corporation is operating on a national scale they are confronted with these conditions which you have described, constitute the very reason why it is necessary for distributors to organize and workers to organize and Government to intervene?

Mr. McINNERNEY. Well, of course—

The CHAIRMAN (interposing). In other words, didn't you by organizing these 93 different local companies under one central head create the condition which has precipitated the demand for Government intervention?

¹ "Exhibit No. 456," appendix, p. 3260

Mr. McINNERNEY. No; not at all. I couldn't see that, Senator, because I get back again to the fact that we are a local concern. The conditions applying to Cleveland might not apply to Detroit at all; the conditions that apply to Pittsburgh don't apply to Cleveland. We have found for instance that there is—they are about 200 miles apart; we found that we were buying milk within 60 miles of Cleveland, being delivered in Pittsburgh and vice versa. It didn't seem sound, but that was the condition we had.

METHOD OF ORGANIZATION AND FINANCING OF NATIONAL DAIRY

The CHAIRMAN. Now all these local companies which you have acquired were in existence before National Dairy Products?

Mr. McINNERNEY. Yes, sir.

The CHAIRMAN. And you purchased them?

Mr. McINNERNEY. Yes, sir.

The CHAIRMAN. And organized them?

Mr. McINNERNEY. Yes.

The CHAIRMAN. Now, how did you purchase them, on the average?

Mr. McINNERNEY. Well, when we started in 1923 the company was made up of two companies, one of which I owned in Chicago, and the other owned by Mr. Rieck. We were both individuals owning the business largely. I owned 90 percent, although it was a corporate company, and Mr. Rieck owned pretty close to that himself. Mr. Rieck felt that he wanted to retire from business—he had a very large business; I felt it was an opportunity to consolidate companies, and so his company and mine went together and we issued stock, based on an earning basis, and from that grew other companies.

The CHAIRMAN. When you say you issued stock, based on an earning basis, what do you mean? Whose earning basis?

Mr. McINNERNEY. Well, the combined earning basis of both companies.

The CHAIRMAN. Your company and—

Mr. McINNERNEY. Mr. Rieck's. Mr. Rieck elected to sell some of his stock—somebody had to sell some stock; I didn't elect to sell any; I took only stock.

The CHAIRMAN. When you say earning basis again you mean earning capacity of the two companies?

Mr. McINNERNEY. Of the two companies.

The CHAIRMAN. Was that greater than the invested capital of the two companies?

Mr. McINNERNEY. Well, what do you mean?

The CHAIRMAN. I mean when you capitalized the earning capacity of the two companies, did you get a larger sum than the actual amount of capital invested in the two companies?

Mr. McINNERNEY. Well, of course, we capitalized to the extent of the earning power of the business.

The CHAIRMAN. And your earning power was pretty good, I assume, and actually when you were organized you had a capital stock which was larger than the actual investment in the two original companies, did you not?

Mr. McINNERNEY. Well, I didn't; Mr. Rieck did, because my earnings weren't in proportion to his and I had to take less stock.

The CHAIRMAN. Well, did the stock—

Mr. McINNERNEY. I had a market for my stock the minute the dairy was organized, where I didn't have any market for the stock that I owned in Chicago. There was no available market, so that meant I could say I had a very substantial something that the public would buy, whereas before I never attempted to sell stock. It would have been a very limited market because it wasn't a real big business.

The CHAIRMAN. You didn't sell it?

Mr. McINNERNEY. I didn't sell mine; I still have the stock.

The CHAIRMAN. Now, how did the capital—the face value, par value—of that stock compare with the actual investment which you had made in your corporation?

Mr. McINNERNEY. I think you would have to—the stock was put out on the market, 125,000 shares, as I recall, 16 years ago. I am not quite sure, but I will submit to you a statement to make your records complete or correct, if you wish.

The CHAIRMAN. I am just—

Mr. McINNERNEY. The stock was sold in the market, as I recall it, at \$33 a share, and there were 125,000 shares offered to the public, but this stock was underwritten by the banking group, and the lowest it ever got, as I recall it, at that time was a little above 30, but we acquired companies pretty fast and the public absorbed the stock and kept it going up.

The CHAIRMAN. Was it no-par stock?

Mr. McINNERNEY. No-par stock.

The CHAIRMAN. Was it voting or nonvoting stock?

Mr. McINNERNEY. Voting stock.

The CHAIRMAN. The public got voting stock?

Mr. McINNERNEY. Yes.

The CHAIRMAN. Now when you purchased these—

Mr. McINNERNEY. Right there, Senator, I was the largest individual stockholder, of course, by virtue of—I had more stock than any individual at that time.

The CHAIRMAN. Did the stock which you received personally represent the investment which you actually had made in the business?

Mr. McINNERNEY. Well, I think because of capitalizing the earning it represented more than my investment.

The CHAIRMAN. That is what I thought. And that was true of Mr. Rieck's, also?

Mr. McINNERNEY. Yes.

The CHAIRMAN. Now then when you purchased these subsidiaries, did you buy the stock of the companies, or the—

Mr. McINNERNEY. Well, we did both, I think, both the assets—about 50-50. We had one fundamental basis in the acquisition of properties which was that we would never buy a property and issue securities against it, which diluted the existing stockholders' interests in the business.

The CHAIRMAN. You never did that?

Mr. McINNERNEY. Never did.

The CHAIRMAN. That has been done.

Mr. McINNERNEY. Well, in addition to that, Senator, I practically made every trade. I never took a share of stock directly or indirectly, nor did anyone else take a share of stock directly or indirectly.

Every dollar, every share of stock that was issued to someone who came into our group, whether he elected to sell or didn't, represented the actual purchase price of the business. There was no watering of stock.

The CHAIRMAN. There were not additions by way of bonus or anything else?

Mr. McINNERNEY. No, sir; and I never received a commission for acquiring the stock.

The CHAIRMAN. That is, let me say, a very commendable record.

Mr. McINNERNEY. I really honestly believe that that has contributed to our at least maintaining some earnings. We have constantly paid a dividend, not as much as we did in stock, but we have always made some money, a declining amount it is true, but still——

The CHAIRMAN. You have always made a fairly good return on the invested capital?

Mr. McINNERNEY. Yes.

The CHAIRMAN. Well now with respect to that——

Mr. McINNERNEY. We don't figure so much invested capital.

The CHAIRMAN. Beg pardon?

Mr. McINNERNEY. In our capitalization we don't figure so much invested capital as we do percent of earnings to sales.

The CHAIRMAN. Why do you prefer that method of accounting?

Mr. McINNERNEY. Well, think it is more equitable basis because our capital structure necessarily, the paying of rather good prices, generally speaking, we will say, 10 times the earning basis, and in many instances we would buy businesses and pay a higher price for their earnings than we had to pay in acquiring the properties. No way I know that we could put the invested capital as against the price because we paid relatively in cash. Generally it was stock.

RETURN TO NATIONAL DAIRY ON INVESTED CAPITAL

The CHAIRMAN. A slip was handed me this morning by one of the experts, I think, to indicate what the return on invested capital of the National Dairy Products Corp. was in 1929.

Mr. McINNERNEY. Pardon me, sir.

The CHAIRMAN. I wonder if these figures are correct. They have been handed to me as being correct. Return on invested capital of the National Dairy Products Corporation, 1929, 17.5 percent; 1930, 17.1; 1931, 14.8; 1932, 8.9; 1933, 6.2; 1934, 6.6; 1935, 8.5; would that be substantially accurate?

Mr. McINNERNEY. Our treasurer, who has been with me, is present. Fairly close.

The CHAIRMAN. I called for those figures because the comparison was running in my mind between the small profit of a half a cent per quart which was represented on one of your charts, and I remarked at the time, you may recall, that in a large corporation such as yours, with a large overturn, a large sale, you could be satisfied with a very small profit per quart, and it might reflect itself in a very large profit on invested capital.

Mr. McINNERNEY. Well, we are thinking more in terms of dollars and profit than we are percentage of profit, Senator. We would change the conditions. While I am not trying to imply on any

basis that we aren't in business for a profit, our percentage of profit has constantly declined. Our business was substantially off. For instance, the first 3 months of this year our business is off in sales $1\frac{1}{2}$ percent, but our unit business is up about 10; in other words, we are selling in weight, or in units, 10 percent increase, but our profits for our volume dollar sales are off about $1\frac{1}{2}$ percent. We are selling more for less profit, in other words.

The CHAIRMAN. I thought that you had a smaller participation in the general market, however.

Mr. McINNERNEY. We have.

The CHAIRMAN. Though your unit sales are up, you don't have as large a participation.

Mr. McINNERNEY. I am talking about our total business; the increase of cheese, the general milk business is up; the fluid-milk business, we think, is distinctly down, but our tonnage is up, but it is not being used in fluid business.

The CHAIRMAN. The tonnage is up. It doesn't represent as large a percentage of the total tonnage as it did a few years ago. Is that correct?

Mr. McINNERNEY. I don't know as I could answer that.

The CHAIRMAN. I get the impression in these charts, particularly from that chart showing the large number of new distributors in the field, that you were not participating to as great a percentage in the fluid-milk business as you were some years ago.

Mr. McINNERNEY. That is true, Senator. I have said, and I say in this market here, the producers' association here claim they have 90 percent of all the milk in this market. Maybe they have, but it would probably be safer to say 85. If I were a buyer of milk, I would buy 85 percent of my requirements from the producers' association. I would be a free lance on that low price of milk in this market. That is contrary to the theory of those who have been in the milk business a long time. We have had to do some of that to meet the competitive conditions in New York City, but we have to meet the free milk that can't get in or don't want to get in—let's put it that way—to the producers' association, and generally speaking their market is only in the manufacturing market. If we were not taking all our requirements from a producers' organization, we would be free to pick up some of this free milk which would be at a lesser price. That we have not done, and I personally don't think it is a good buy.

The CHAIRMAN. There may be causes for it, but the testimony from Mr. Montague yesterday, as I recall it, was that the Borden Co. has also a decreased participation, and the thought which was forming in my mind, let me say the question, was that which I have already indicated, whether as a matter of fact the milk business is not so essentially local that it can be most efficiently handled by local companies rather than by national companies.

Now, I don't expect you to answer that question because as I say, it is formulated in my mind and I don't pretend myself to have an answer for it. Mr. Gordon may have a suggestion.

Mr. McINNERNEY. I would say that the exchange of ideas as to costs, delivery costs, economies, and manufacturing costs from a large organization—we don't pretend to represent that all of our organizations operate through the same efficiency, or, let's say, the low cost.

Naturally, we are always trying to bring those costs down because it is a protection and insurance to our business. I think that through interchange of trained personnel and the men who are posted in our business agree, we can do a job on an equal business better than a smaller company. In other words, if we pay the same price, if the competitor pays the same price for his raw material, and he pays the same wage, we believe that our efficiency will land our goods on the platform at a lesser price than some other.

The CHAIRMAN. In other words, the organization which you have effected of these 93 companies through the National Dairy Products Corp. has been a very good thing for you and you think it promotes efficiency in the milk industry as a whole and it is a desirable thing.

Mr. McINNERNEY. I think that, and I think also we can widen the field for our products where a smaller company couldn't do it.

The CHAIRMAN. And now I would turn to the concluding paragraph of your final summation:

If producer groups because of pressure from membership or for any other reason find it impossible in any market to establish prices on a sound basis, then the alternative will be to give all producers who desire to ship to the market and who produce milk of equal quality the opportunity of doing so.

That means that you are recommending that the producers go on an individual basis to deal with you on your organized basis.

Mr. McINNERNEY. No; not at all.

The CHAIRMAN. Then I don't understand the English language, if that isn't what that sentence means.

Mr. McINNERNEY. That is the reason I want to clarify it. I am recommending that unless the producers—and I will say frankly I think we contribute to this price situation. There was a time in New York when we had to go up as far as Buffalo in order to get enough milk to protect the New York milkshed. That meant a 400-mile haul, which was costly, and so forth. When the market health regulations became so that the milk producer was obliged to do certain sanitary things which cost him money, the farmers suggested to the buyers that they get an additional price for that. The larger distributors thought it was sound, they asked them to produce certain things, and they ought to be reimbursed.

That is a point, in my opinion, where we acquiesced in it and constantly that difference became greater until you see today in Boston it is 7 cents a quart as against 2—that isn't exactly the figure—and it got out of line. The farmer is just as smart as the businessman. He has had candy and doesn't want to give it up. If you attempt to reduce—it is like reducing the wage to the unions, he will take all you put on, but he never wants to take any off, and he is now in position where he controls the supply. Without the producer we would be hopeless. We can't produce the milk. So that we are in the hands of the producer and I say that we have fine relations with the farmer. So that we find this has gotten so top-heavy in this that it is no longer sound, particularly in the surplus of milk. If you had a normal supply of milk, where the farmer didn't have a surplus—he had a situation of 80 percent of fluid milk and 20 percent market of surplus milk—it would be an ideal situation for him and we wouldn't object to paying him the price because we couldn't get any better price. I have argued if we had a market, a man had 85 percent, for instance,

in Detroit, we should buy 85 percent of our requirements for that man and be in the market for 15 percent free milk. We have to meet the so-called blended price that meets us in the bottle, and we can't do it. We cannot make a return to the farmer on the class 1 price basis if we use class 2 milk and put it in the bottle, although it is the same milk, but a small individual can do it, and that is one of the things, because it is widespread.

We would like to see the farmer get a condensery price as a basis for his milk and then put a premium on top of that for whatever it costs; and we established it in St. Louis. We would like to reimburse that farmer for the extra care that he puts into a milk that goes into the bottle; we think that would be economically sound.

INCREASED CONSUMPTION AND LOWER PRICE TO PRODUCER SOLUTION
OFFERED TO INCREASE FARMER'S INCOME

Mr. McINNERNEY. I think—some of my people don't agree with me—that the net result of it would be that the farmer would finally get more dollars for his product, although he would get a lower unit price. That would mean there would have to be a greater consumption in the fluid line. Whether it would do that, nobody can tell, but personally I believe that the farmer would get not the high prices but his average price would be better because of the increased consumption. If there is available 50 percent more milk than ought to be consumed, we either are not doing a good job in creating that demand, or there is a resistance to creating the demand that we would like to help solve.

I think we have figures here showing that some figures of that kind were made a year or so ago, that if each individual would eat one more patty of butter a day, there wouldn't be enough butter.

The CHAIRMAN. I understood that statement, but still I don't see that my interpretation of your sentence has been changed. Now, let's observe the sentence again. You said, "If the producer groups," which I assume to be the organization, "because of pressure from membership or for any other reason, find it impossible in any market to establish prices on a sound basis," that is to say, if the organized farmers find it impossible to adopt this sound basis which you have just described, then you say the alternative is what?

Mr. McINNERNEY. The alternative is to open the market; in other words, remove the barriers from that market.

The CHAIRMAN. That is right. In other words, to bring about the disorganization of the producer.

Mr. McINNERNEY. No; I don't agree with that.

The CHAIRMAN. That isn't what you mean, then?

Mr. McINNERNEY. No; it is not what I mean. I would say that that would be a leverage that he would have to meet the situation.

The CHAIRMAN. You say, then, the alternative will be to give all producers who desire to ship to the market and who produce milk of equal quality the opportunity of so doing.

Mr. McINNERNEY. Yes.

The CHAIRMAN. Why do they not have that opportunity now?

Mr. McINNERNEY. Health regulations don't permit.

The CHAIRMAN. You don't want to advocate the abolition of the health regulations?

Mr. McINNERNEY. Certainly not.

The CHAIRMAN. Then what is the alternative that you are suggesting?

Mr. McINNERNEY. I would say that the health officer in Albany might accept the health officer's requirements in New York City and widen the field.

The CHAIRMAN. Then you do want to be understood that in no circumstances are you urging that the organization of farmers should be broken up.

Mr. McINNERNEY. Certainly not.

The CHAIRMAN. Well, I wasn't quite sure from the language whether you were advocating that or not.

Mr. HOVEY. May I add that we do not believe that boards of health should, through the exclusion of milk of equal quality protect producer groups in demanding class 1 prices unreasonably and unfairly high. We think they do that today. They really set up a tariff wall through their exclusion of milk of equal quality by restricting the milkshed, which they inspect.

The CHAIRMAN. Why do they do that?

Mr. HOVEY. It appears that they do it to protect the producer groups in getting an arbitrarily high class 1 price.

Mr. McINNERNEY. That is partly true but New York has just so many inspectors, and it is rather difficult for them to take on a wider area to inspect. If the departments of health among themselves would agree on inspection, that might widen the field.

The CHAIRMAN. What you are saying is that the government in New York at least pays too much attention to the interest of the producer, and you wish that he would pay more attention to the distributor, the National Dairy Products Corporation, Borden, and a few others.

Mr. McINNERNEY. No; we are not asking them to do anything for us. All we are asking the Government to do—

The CHAIRMAN. Except in an emergency.

Mr. McINNERNEY. That is a temporary measure. I didn't think for a minute, Senator, that the plan I am suggesting here is going to correct this chaotic condition overnight. I think you can only build a plan for a long-term pull, because it is too serious and no law will really correct it because a law would be impossible of enforcement. But I am not advocating that at all. I would like to see a good, sound, fundamental basis of the basic product established, and that can never be and never will be anything except a price related to condensery price or butter and cheese.

The CHAIRMAN. Mr. McInnerney, I personally thoroughly enjoyed this interchange of views between you and myself, but I fear I have imposed myself too much on the rest of the committee, if not on you.

Senator KING. I would like to ask a question. What proportion of the milk output is regarded by and large as fluid milk and what surplus? If you have answered that, I will not ask you to repeat it, because I have been compelled to be away in another committee. What I am trying to get at is how much of the milk output, not consumed, of the farmer, is regarded as fluid milk and how much surplus?

Mr. McINNERNEY. I would imagine about 60-40.

Mr. HOVEY. I think of about 49,000,000,000 pounds produced—there are about 15,000,000,000 sold in fluid form.

Senator KING. When the farmer brings his milk to the distributor, or whoever it is, is it classified there and he is told that so much of it is fluid and the rest is surplus, and, therefore, he receives different prices?

Mr. HOVEY. The classification, Senator, is determined by the distributor's use of the milk, and that is not determined until the close of the month.

Senator KING. And they then determine how much they shall give to a farmer as fluid and how much as surplus milk, though it is all the same grade.

Mr. HOVEY. It is understood in advance the basis upon which they will pay, but the final quantity in each class is to be determined by its use, and so far as National Dairy is concerned, representatives of producers are always permitted to audit the use of milk.

Senator KING. Who determines when a farmer brings milk to the distributor how much of it shall be regarded as fluid and how much shall be regarded as surplus?

Mr. HOVEY. No one knows exactly at the time the milk is delivered to the milk plant. They know approximately, probably, that about so much will be required in fluid-milk sales and the rest will be surplus, but we never know in advance just how much milk the producers are going to deliver. We can pretty well estimate our use, but we very seldom can estimate accurately the amount to be received from the farmers.

Senator KING. You believe it is better to deal with organized farmers in the purchase and disposition of the milk than with farmers separately?

Mr. HOVEY. Yes, we think so. We think it is to the producer's advantage.

Senator KING. Are there many sections in the United States where the farmers are not organized for the purpose of producing and disposing of their milk? If so, do they receive larger prices for their milk, blended milk, or the whole product than in other sections?

Mr. HOVEY. Senator, yes; I believe that in the large fluid-consuming markets that the supply usually comes from organized producers, that is, if there are cooperative producer cooperative organizations in most of the fluid-milk sheds.

Senator KING. Does the Department of Agriculture urge the farmers to organize, and if they do organize, does it seek to exercise a control over the prices, or determine the prices which they shall receive from the milk which they sell?

Mr. HOVEY. I feel quite sure that the Department urges the organization of the farmers, and where the farmers have requested the Federal Government to fix prices, they have considered doing so, and in many cases have done so.

Senator KING. Speaking for your company, do you regard it as the proper function of the Federal Government to fix prices of milk which the farmer sells either to producers or to local organizations that are not connected with producers' associations or distributors' associations?

Mr. HOVEY. Only in emergencies. The earlier testimony was to the effect that producers will be encouraged to greatly increase their production of milk. That resulted in great surpluses. If all control was to be removed, prices would collapse probably to butter levels promptly. Therefore, in fairness to producers, it would seem that there should be some measure of control, but that during that period of control it should be so directed as to correct the relation between supply and demand, and that is what we are recommending.

Senator KING. Who is to exercise that control?

Mr. HOVEY. We think the A. A. A.

Senator KING. Should or had?

Mr. HOVEY. We think they have not, but we think they should in establishing prices, establish them upon a sound basis which would not encourage the production of excessive quantities of milk in the fluid-milk area as knowing that that excess production must go into butter and cheese, and also knowing that the farmers around the large milksheds cannot afford to produce milk to be made into butter and cheese.

Senator KING. You don't believe the law of supply and demand, then, ought to operate in connection with the production and distribution and sale of milk?

Mr. HOVEY. We think it should, but we think it is so out of balance, due to artificial control, that probably artificial control should be continued if it would be so directed as to restore a better balance between supply and demand.

Senator KING. This lack of equilibrium in the business then has been the result of artificial control by the Government?

Mr. HOVEY. By the Government and by the producers' groups.

Senator KING. Then the producers sought an artificial control to restrain trade or reduce prices?

Mr. HOVEY. By control of supply they have attempted to be in a position to dictate the price at which their milk will be sold.

Senator KING. Would you say an attempt has been made either by producers or by distributors to establish a monopoly or create a monopoly and to determine prices to the consumers?

Mr. HOVEY. I know of no effort directed toward control of prices to producers except where State control boards have established consumer prices.

Senator KING. You think it is for the best interest of the consumers of the United States, consumers of milk, that there should be artificial or other control by States or by the Federal Government, and prices fixed?

Mr. HOVEY. I don't believe we think so, but again I want to repeat that we are sympathetic to the difficult situation in which our producers find themselves. We do business with those producers year in and year out. We know many of them personally. We are very much sympathetic to their problems, and when we see that as a result of an artificial condition they are faced with tremendous surpluses, we realize that unless there is some major control continued they are going to receive probably butter prices. We think that no control is justified unless that control is directed toward restoring a better balance between supply and demand, and that means a lower class 1

price, so that there will not be an encouragement of production and discouragement of consumption.

Senator KING. If, using the word which has been used by one of the witnesses, the condition now is one of confusion in the milk industry, and it has been caused by artificial regulation or price fixing to attempt at a control, your suggestion for the remedying of this evil condition is to continue those artificial conditions.

Mr. HOVEY. Only if it is directed toward correction.

Senator KING. Who is to determine whether the correction has been achieved?

Mr. HOVEY. Senator, we think with the sound pricing of milk that there will probably be a decrease in production and an increase in consumption. There will be less surplus. We think then that control can be removed and probably should be removed.

Senator KING. Doesn't your formula disregard the consumer?

Aren't you more concerned? Does not your testimony, properly interpreted, convey the idea that you are more concerned in the producer than in the consumer?

Mr. HOVEY. Well, at least, if it does so indicate, it isn't so. We probably are more concerned about the consumer. All the way through I think our testimony indicates that we believe prices have been too high, and we think that that should be corrected. We think there should be a reduction in the class 1 price to producer, a reduction in the price to the consumer.

Senator KING. Then if the prices are too high, in either category, it is the result, as I understand you, of artificial control or regulation, and you believe that should be continued in order to bring about a better stabilization of conditions.

Mr. HOVEY. Under emergency and only with sound pricing of milk.

Senator KING. Without desiring to be inquisitive at all, did you support the N. R. A. philosophy?

Mr. HOVEY. I think Mr. McInnerney can answer that.

Mr. McINNERNEY. I was a member of the N. R. A., Senator. I wouldn't like to say too much about it.

Senator KING. I will say very frankly—

Mr. McINNERNEY (interposing). I think it had its uses. As I looked at the N. R. A., I think the two antitrust acts could be adjusted. It gave business an opportunity to discuss things under the N. R. A. That it was abused is no question, and that industry came down and asked many things that weren't practical there is no question.

Senator KING. It seems to me your testimony indicates that you are favorable to a condition which would be analogous to the N. R. A.

Mr. McINNERNEY. Not entirely. Let's take an actual situation. We have this tremendously big distributing organization giving employment to 6,000 men, and if you take the men back in the country it is 12,000 men. The continuance of the milk business, from our point of view, is safer in selling to the individual than it is wholesale, because the wholesale customer is eliminated by price. But we believe more milk is consumed when delivered to the house than otherwise. We believe the farmer has built his organization up to

the point where he has had an added cost and is entitled to this added price for the care that he has taken of the milk.

Now, if you get it down to a butter basis, and that is fundamental, or has been for years until recently, it is a sound basis, but it doesn't give back to the farmer an adequate return. He therefore might get careless in the character of milk or with his product. We believe the public will never go to these so-called post-office stores or that kind of store in quantity for price. Maybe they will partly. I liken it a good deal like all of us going to the post office for our mail. We wouldn't do it. It will accumulate in the post office for I don't know how long.

Well, now, we have got this highly efficient distributing organization. We would like to continue it, partly because we want to make money on it, partly because it is the outlet for the farmer, partly because he gets a better price for that sort of thing, and altogether we think it is sound. If it is destroyed, it will take care of itself probably in the long run. There isn't any question but what the labor cost to deliver a bottle of milk—it is hard to establish what it does cost—but the labor alone for household delivery is pretty close to 4 cents. It may be a little more or a little less, and it is pretty difficult to tell the farmer buying his milk for 2 cents a quart that it costs 4 cents to deliver it to the house. He doesn't understand it. It is just one of those things.

Now the various people who seem to have a great deal of interest in our welfare and are trying to tell us how to run the business tell us we have too many wagons on the street and a lot of things. We have got an answer to that, a very definite answer. It is largely controlled by the man who delivers. You take a driver, and he delivers 300 quarts of milk, which is an average route. In the first place, that 1 quart of milk costs about 4 cents. If he puts 300 bottles of milk to the wagon in the morning, in a case, he has lifted 1,200 pounds. He delivers it, and he has lifted another 1,200 pounds, which is 2,400 pounds. Then you bring back the bottle, and it weighs 25 ounces. He delivers another 600 pounds, so that man has delivered about 3,000 pounds every day, plus climbing stairs. Physically, even though he was an exclusive milk deliverer, we couldn't produce that superman. He just walks away from his job. There is an economic, absolute fact that we have to deal with.

Senator KING. That is very interesting, but it isn't quite germane to the point that I was directing attention to. I want to invite attention now to the situation which you say existed in New York under the Rogers Act¹ when the prices were fixed by the State. Was the milk situation then in a better condition than it is now?

Mr. HOVEY. Yes; it was.

Senator KING. Did you attribute that to the fixing of prices by the State?

Mr. HOVEY. It was due to fixing of prices by the State and by the Federal Government.

Senator KING. Do you think fixing the prices makes for larger returns to the producer and larger returns to the distributor?

Mr. HOVEY. We think that control has undoubtedly resulted in larger returns to the producer.

¹ See footnote 1, *supra*, p. 3038.

Senator KING. But doesn't it result in less returns to the consumer?

Mr. HOVEY. Less returns to the distributor?

Senator KING. No; the consumer, in lower prices.

Mr. HOVEY. The consumer pays more for milk.

Senator KING. In other words, does not the plan which you are suggesting take into account only or primarily the producer and the distributor and primarily the distributor without taking proper cognizance of the consumer?

Mr. HOVEY. We think that control has had that effect, Senator—that prices have been too high to producers and too high to consumers.

Senator KING. And, of course, the consumer had to pay the penalty of the higher prices.

Mr. HOVEY. And we don't think that should continue. We think if there is to be control there should be control only upon the basis of sound pricing, which means that the class 1 price should have a reasonable relation to the value of milk used in the manufacture of evaporated milk.

Senator KING. Then, under your philosophy, you come back to the question of price control by either the State or the Federal Government, or by some agency of the Federal Government, isn't that true?

Mr. HOVEY. We are suggesting that temporarily because the situation in New York is so bad that otherwise producers will receive poverty prices, butter prices. We dislike to see that. We know that it costs them more to produce milk for the New York City market. They are entitled to a premium, and we want to do our part to see that they get that premium.

Senator KING. Have you found any conflict between the municipal regulation, either through the boards of health or through other municipal authorities, and the State regulations or the Federal regulations? Is there overlapping or are there controversies arising from attempted control?

Mr. HOVEY. Of course, the functions of the health department I don't think in any way conflict or have very much to do, necessarily, with the orders of the Federal and State Governments in fixing prices, except as the board of health at times has apparently been unwilling to extend its inspection area to allow milk of equal quality to come into the market which they control. We are not recommending that they should do so, providing the governmental authority or producers will establish class 1 prices that are fair to the consumer and fair to the distributor and fair to themselves.

We think that obviously they should have the desire in their own interest to have prices that are fair to the distributor and fair to themselves. We think that obviously they should have the desire in their own interest to have prices that are fair to all groups, and if they will do that we see no reason why the milksheds should be extended, and we don't urge it, but in case arbitrarily high prices that are unreasonable are to be continued, then we think that probably the boards of health should not, through the exclusion of milk of equal quality, protect those groups in getting that unfairly high price.

Senator KING. You appreciate the fact—do you not—that regulations may be imposed called health regulations or police regulations that may be favorable to a certain area or certain producing group

but disadvantageous to other areas or other producing groups, perhaps some little distance away.

Mr. HOVEY. Of course, that has been true, Senator.

Senator KING. I put that question in view of the fact that complaints have come to me¹ recently that the health regulations in the District of Columbia or other regulations have been rather for the protection of one of the so-called milksheds which furnishes Washington substantially all its milk and that it is a discrimination, or the regulations are such as to discriminate, against the producers of milk in other States contiguous to Washington. Have you encountered similar complaints in various parts where your organization operates?

Mr. HOVEY. I think we have not encountered complaints. I can only repeat that we don't care to raise that issue, provided those who have controlled prices and those who can apparently continue to control prices are willing to establish those prices, the class 1 prices, on a sound basis.

Senator KING. Of course, the sound basis is a term so flexible that it may mean much or it may mean very little.

Mr. HOVEY. But with us it means a definite thing because we have definitely stated how we think the class 1 price should be determined so it is not a flexible thing so far as our recommendation is concerned.

Senator KING. Then the class 1 milk is the determining factor in regard to the prices to be paid for milk?

Mr. HOVEY. The class 1 price determines the price that we pay for milk when we sell it in fluid form.

Senator KING. I understand that, but, after all, that determines the price which ultimately the consumer receives for the entire product.

Mr. HOVEY. It determines the price the consumer has to pay.

Senator KING. I mean, the producer gets for his entire product. That is to say, the unit which, after all, determines whether the production of milk is profitable or not rests upon the amount of it which is utilized or allocated to the category of fluid milk.

Mr. HOVEY. I think that is true, Senator, that if he has a large percentage in class 1 it raises his price.

Senator KING. Of course, the percentage in class 1 depends, I suppose, upon the percentage of the aggregate amount which you denominate fluid milk or class 1.

Mr. HOVEY. Which we use in fluid-milk sales.

Mr. McINNERNEY. You know many farmers never had a fluid market, have none at all, they only make milk for manufacturing purposes.

Senator KING. Is that because it is inferior in quality?

Mr. McINNERNEY. No; it is because there is no population contiguous to it. You take the Central States that we pointed out, produce 70 percent of the milk and they only have 30 percent of the population. They naturally don't have any relative fluid output—Minnesota, Iowa, Illinois constantly make cheese, Minnesota and Wisconsin being the two largest. Those farmers don't know any-

¹ Senator King is chairman of the United States Senate District of Columbia Committee.

thing about fluid markets, they never had a fluid price in their lives. You have the tail wagging the dog. You have the small part of the business enforcing a higher price on this fluid market. We say that because of the added care they should be paid, but we say basically it should be the butter, cheese, or condensery price.

Senator KING. Do you think the producers' organizations and the distributors, including your company and the Borden and these other larger companies, exercise a controlling price upon the milk products to the consumer and are deterrents to further expansion of the business and of the larger production of milk throughout the United States generally?

Mr. HOVEY. We don't think that is true in a single market.

Mr. McINNERNEY. No; we do not.

Senator KING. You think there is nothing, then, in the present arrangements between the cooperatives, that is the producers and the distributors, that tends to monopolistic control of prices?

Mr. HOVEY. Not in a single market so far as we know.

Senator KING. So that your view is that generally speaking, with some slight modification, the law of supply and demand is operative?

Mr. HOVEY. I think possibly you misunderstood, Senator. So far as any collusion between the distributor and the producer, I am sure there has been no monopolistic control. We have stated that producer groups do, in some territories, control the price at which their milk may be sold.

Senator KING. There may be monopolistic control without being collusion and acquiescence or general understanding not amounting to collusion.

Mr. HOVEY. I think we have contributed nothing in a program which would result in monopolistic control.

Senator KING. You don't think the policy of your company has contributed to increasing the price by and large in the fields where you have operated, by and large, to the consumer, and that the consuming public have not been disadvantaged by reason of the operations of your company?

Mr. HOVEY. Not in any market.

Senator KING. That is all.

The CHAIRMAN. Mr. Ballinger.

EFFECT OF LARGE HOLDING COMPANIES ON MILK INDUSTRY

Mr. BALLINGER. I have only a few questions to ask and I will try and get them through because I understand you want to get home to-night. You said, "We have made fresh nutrition milk available daily, thereby increasing the consumption of milk." Is it not a fact that the per capita consumption of milk has gone down in the United States since your company was organized?

Mr. BROMLEY. With the chairman's permission, I would like to answer this question.

That is not a fact, Mr. Ballinger. The per capita consumption in 1938, the most reliable estimates, show approximately the same as the consumption of milk in the early twenties. Because of the peculiar nature of consumption that means the actual use of milk per person

is somewhat higher. The people under 15 years of age consume certainly more than twice as much milk apiece as, per person, the people over 15 years of age. If the people under 15 years of age consume today the same as they did in the fore part of the twenties, and if the people over 15 years of age consume the same amount as they did in the fore part of the twenties, the aggregate per capita consumption of milk in this country would be down about 8 percent because of the shift in your age population, which I am sure you are very well acquainted with.

Mr. BALLINGER. But then, there, has per capita consumption increased or decreased or remained constant?

Mr. BROMLEY. It increased from the fore part of the twenties until 1930. I believe figures show 1930 being the peak year. It declined, quoting from memory, approximately 8 percent from 1930 to 1934. Again quoting from memory, it practically equalled its peak in 1937. It declined again in 1938.

Mr. BALLINGER. Well, then, it has declined.

Mr. BROMLEY. It has not declined since the formation of the National Dairy Products Corporation; neither is there downward trend.

Mr. BALLINGER. Mr. McInnerney, is the Southern Dairies, Inc., a subsidiary of National Dairy Products?

Mr. McINNERNEY. Yes, sir.

Mr. BALLINGER. Can you tell me when you acquired this company?

Mr. McINNERNEY. May 1930.

Mr. BALLINGER. I am just going to ask a few questions with reference to the quality of the product of the National Dairy Products. I think in your brief here you pointed out what you have done in helping the company along in improving the dairy products. Has National Dairy Products improved the quality of the milk as it came into the field?

Mr. McINNERNEY. We think we have. We have what we call the Sealtest laboratory control. We have instituted in all our plants a laboratory control of the product which we are positive has improved the character of the products.

Mr. BALLINGER. You make the statement that by 1915 milk sold in the United States led the world in quality.

Mr. McINNERNEY. Milk sold in 1915?

Mr. BALLINGER. By the year 1915, milk sold in the United States led the world in quality. Page 2.¹

The CHAIRMAN. The second sentence in the second line.

Mr. BALLINGER. My question is, since this quality was achieved without the advent of the National Dairy Products, wouldn't it be possible for milk to be of superb quality without the National Dairy Products being in existence?

Mr. McINNERNEY. I think so.

Mr. BALLINGER. In other words, the improvement in quality of the milk cannot be taken over exclusively by National Dairy Products' large-scale distribution?

Mr. McINNERNEY. I am only talking about our own company. I would like Mr. VanBomel, president of Sheffield Farms, because his company is 98 years old, and they were the first to establish the pas-

¹ Of Mr. McInnerney's prepared statement.

teurization of milk. We think that he can prove, as I said, that we led the market in improvements before the sanitary regulations of the departments.

Mr. BALLINGER. I am simply saying you have two different systems here. Before National Dairy Products and Borden's entered into the market on a large scale, you had a fairly decentralized industry. Under that decentralized industry you admit the quality of milk sold in the United States led the world in quality. I am simply showing that the large-scale distribution can't take unto itself the fact that the milk in the United States today is of superb quality. It could occur under a decentralized operation.

Mr. BROMLEY. I think the first part of Mr. McInnerney's statement concerns the merit of the industry as a whole to a considerable extent. If we don't make that clear, we wish to make it clear now. As you well know, there has been a considerable amount of criticism, not of our organization alone, but of the entire industry, and the industry has done a wonderful job, as we endeavor to point out. We wanted to give the industry a pat on the back as well as ourselves. That is the purpose of the first part of this brief.

Mr. BALLINGER. The industry was a little different in 1923 than it was in 1915. You didn't have one company with 93 subsidiaries stretching from coast to coast, did you?

Mr. McINNERNEY. National Dairy wasn't in existence in 1915.

Mr. BALLINGER. The questions I am directing are going to try to show what is the advantage of large-scale distribution of milk and milk products to farmers on the one hand, consumers on the other.

I am simply saying a decentralized industry could produce the best milk in the world, as compared to an industry which is now more highly centralized. That is what is running through the whole discussion before this committee. What is the advantage of big business?

Mr. McINNERNEY. I thought I covered that by our laboratory statements, our Sealtest. For instance, we have a group of 20 men from agricultural colleges to meet with us, discuss the problems of milk, research in milk, under Sealtest laboratory control. We think we have improved the protection and quality of the product through that Sealtest protection. It costs us money. We carried on—as you know, milk is very apt to take on the taste of the vehicle in which it is transported or by which it is processed. We carried on 2 years' experiments with the Metallurgical Institute and others to try and determine a nonresisting metal that would eliminate that one factor. It cost us a great deal of money; it was a real contribution. We didn't keep it to ourselves; we gave it to the industry.

Mr. SIMPSON. In discussing the consumption of milk, we need not go into the complicated statistical question of the age distribution of the population. I think we might take a simple area like New York and we might take the figures which are the basis of our contention, and which your expert apparently has also studied. Do you find that in New York City, for example, during the twenties when the great companies were being organized, the total fluid-milk consumption was approximately 1,400,000,000 quarts?

Now, I see that the latest figures for 1934 and 1935 show it has dropped below 1,300,000,000 quarts. We make no allowance in those

figures for the increase in population. If we study Boston and Philadelphia, we show the same downward trend. In other words, in these three cities, at least, the total consumption of milk, without allowance for increase in population, has decreased, or certainly not increased.

MR. BROMLEY. On that question, which is a good one, the Department of Agriculture, under tremendous effort, has attempted to get an accurate record of the per capita use of milk, or rather the aggregate use, from which you can get the per capita use of milk, if you wish, in those three markets. Their records are necessarily inaccurate. There has been a considerable change in the way milk is brought to those markets. Their records do not take all of the milk that comes into those markets, and the record in the first place is merely the amount of fluid milk coming into that market, whether it is used for cream or whether it is used for bottled milk the Department is unable to estimate. The facts are that the production of milk in the New York milkshed, which includes Pennsylvania and New York and three or four other States, has materially increased since the forepart of the twenties. The per capita consumption of milk in those markets has not gone down any more or any less. It is about the same as the average for the country as a whole.

MR. SIMPSON. It appears to me that, first, you base your statements, your generalities, on the statistics of the Department of Agriculture, and then you retreat from those figures. As a matter of fact, they are estimates, and we have accepted them as estimates. We merely contend that when you say that the National Dairy Products Corporation has brought more nutritious milk to consumers and has increased the consumption, an examination of the figures doesn't prove it.

MR. BROMLEY. I have no quarrel with the Department's figures for the country as a whole. They are certainly very much better figures than any other nation with which I am familiar. I do quarrel—not quarrel, but I do say what is merely a well-recognized fact, that their figures on milk usage in any market are not accurate.

MR. SIMPSON. Then, obviously the aggregates are no more accurate than the separate figures for individual cities.

MR. BROMLEY. I am afraid we are taking the committee's time up with a question regarding sampling, sir. I would rather not discuss statistical methods. I will merely make the statement that I have much more confidence, and I think anyone would, in national figures, than you would for figures of a specific market of this character.

MR. BALLINGER. Mr. McInnerney, as I understand, big business—and correct me if I don't understand it—comes along and it is supposed to be a superior thing. The corporation gets bigger; it takes more pride in its products; it will be more on the alert to protect the public. Those are the virtues of big business, and I accept them. I have here in my hand the report of the Department of Agriculture, State of Alabama, and I wish to call attention to some things in that report. You stated that you acquired the Southern Dairies around 1930. This report, the first one, is 1935, where they made an inspection of the milk sold by Southern Dairies, and here are some of the things they found in that milk.

MR. MCINNERNEY. What is the date of that report?

Mr. SIMPSON. 1935 to 1937.

Mr. BALLINGER. They tested the butter to see whether it contained any insect matter, and found it did. They tested it to find out whether it had extraneous matter, such as hairs. They tested to see whether it contained extraneous matter, organic, and they found that it did. They tested to find out whether it contained inorganic extraneous matter; they found that it did. In other words, on the four counts on which they were looking, Southern Dairies, Inc., scored 100 percent.

They had other companies there where they fall down on two of these tests, and passed the other two. Southern Dairies made a perfect record. Now, I would be glad to turn this report over to you if you have any comments to make upon it.

Mr. McINNERNEY. We make no butter for Southern Dairies; Southern Dairies may have bought goods, but we do not manufacture any butter.

Mr. SIMPSON. The "Dixieland Dairy" made by Southern Dairies, Inc., Montgomery, Ala.; Kraft-Phenix Cheese Corporation; the Elkhorn Pure Creamery.

Mr. McINNERNEY. What is that?

Mr. SIMPSON. Consigned from the Kraft-Phenix organization, Cheese Corporation, Uniontown, Ala.; the Kraft-Phenix Cheese Corporation, Atlanta, Ga.; Southern Dairies is in another one of these publications.

Mr. STICKLER. Isn't that identified with butter?

Mr. McINNERNEY. Kraft doesn't make any butter down there.

Mr. SIMPSON. Here is another one, Southern Dairies, Inc., Montgomery, Ala., Dixie Queen, Cream Crest; are they your brands?

Mr. McINNERNEY. We make no butter there. They may handle butter to fill out their routes, but it is a purchased butter, but we make no butter. The Southern Dairies makes no butter at all.

Mr. SIMPSON. You sell it?

Mr. McINNERNEY. Yes; we sell it.

Mr. SIMPSON. You sell it?

Mr. McINNERNEY. It is a jobbing proposition and I think they were not very alert if that is true.

Mr. BALLINGER. It is butter sold by Southern Dairies.

Mr. McINNERNEY. We can't dispute or accept; we do not know, but we do not make butter in Alabama; a very poor State to make butter in.

Mr. BALLINGER. Wouldn't it be just as bad to distribute these butters that had these things in it as if you made them?

Mr. McINNERNEY. Of course all butter is scored by the Government, and if that kind of butter is on the market it is because of a bad inspection on the part of the Government. We have butter nationally made by our company there that is very fine butter and I am sure you will not find that situation.

Mr. SIMPSON. Mr. McInnerney, do you produce or distribute centralizer butter?

Mr. McINNERNEY. Oh, yes.

Mr. SIMPSON. Do you produce a very large amount of centralizer butter?

Mr. McINNERNEY. Well, I think most of the butter made in the West, Central West, is largely centralized butter.

Mr. SIMPSON. And that competes with the butter of the cooperative creameries?

Mr. McINNERNEY. Yes.

Mr. SIMPSON. Do you distribute very much? You distribute some cooperative butter, don't you?

Mr. McINNERNEY. We have a plant in Dubuque, Iowa, that butter in Iowa, the prime butter, which is a rather large operation, but we do not manufacture that butter.

Mr. SIMPSON. I wish to refer to two reports on butter: one of the Federal Trade Commission in 1921 and one of the United States Tariff Commission in 1926. I think it might be interesting to read into the record the comparison of the type of cooperative butter produced by the farmers and sold by the farmers with that butter known as centralizer butter, which represents a very large part of the butter which you produce and distribute. This seems pertinent in a discussion of the quality of your product. This report of the Trade Commission in 1921 said:

Poor raw products cannot make fancy butter because of the presence of certain bacteria in the byproducts of the growth. Therefore cleanliness in the production and care of milk is the first step in making good butter. The proper care of the raw material before it comes to the factory is more important than pasteurization, the cream ripening which takes place in the creamery. Very sour cream is not desirable in the manufacture of butter as the lactic acid in butter causes it to deteriorate.

And then from the United States Tariff Commission's report in 1926—The United States Tariff Commission's report in 1926 states that the typical centralizer factory makes several million pounds of butter annually. Many centralizer companies operate creameries in several different cities. Cream is collected from widely separated points and there is often considerable competition between the local buying agencies of different centralizers. Most of the cream bought by the centralizers comes from widely scattered farms where milk production is of secondary interest; shipped for long distances, it is generally sour by the time it reaches the factory.

For that reason it is subjected to special manufacturing processes before being churned. The typical centralizer butter scores about 89 points as compared with 92 points scored by the typical butter made by the cooperative.

Mr. McINNERNEY. Of course, you don't connect us with that because I couldn't answer that question. We make centralized butter—I don't think—we recognize that is gathered cream and does get sour and is neutralized, but it is all inspected by the Government and our plants are big plants, the Iowa plant we have an inspector all of the time; at the big plant we have in Omaha and the large plant we have in Danville, Ill., it is all Government-inspected butter and it is sold on its score.

Mr. SIMPSON. Just one concluding observation. In the appraisal of the quality of the product which you produce, a great national corporation, it seems to me we should compare it with that produced by the farmers' cooperative themselves. The farmers have done a very good job in manufacturing and distributing butter. The Land o' Lakes Creamery offers a good example.

Mr. McINNERNEY. We are one of the largest customers of Land o' Lakes Creamery.

Mr. SIMPSON. I knew you distributed cooperative butter, but on the other hand you do distribute centralizer butter, which is not always the highest quality of product?

Mr. McINNERNEY. It wouldn't score high; it couldn't score. I agree with the statement you can't start with a poor article and finish with a good one, but we do think we have contributed a good deal to the butter industry by our laboratory work and our score is constantly going up.

Mr. BALLINGER. Mr. McInnerney, you say that the per capita consumption of ice cream is more than six times as great as it was at the beginning of the century, and I just wondered how you could estimate that because at the turn of the century wasn't a great deal of the ice cream made in the home?

Mr. McINNERNEY. Sometimes we had men come into our group and tell us they had 200 percent increase in their business, and then when we looked it up we found they didn't have much business. That probably is the answer to that. Of course, the consumption of ice cream is steadily increasing in this country and in Europe.

Mr. BROMLEY. The figure, Mr. Ballinger, comes from the International Association of Ice Cream Manufacturers.

Mr. BALLINGER. They don't give the basis for it. In other words, you still want to stand on the statement six times greater.

Mr. SIMPSON. They have no figure for the home consumption of ice cream at any time during the century.

Mr. BROMLEY. That is true, sir: both of those figures are based on the commercial production of ice cream.

Mr. BALLINGER. Of course, when they used to make ice cream in the home they did use fresh milk, cream, or whatever it was. Maybe we are going through a new system now.

Mr. McINNERNEY. We still use cream.

Mr. BALLINGER. Do you ever use milk powder in the manufacture of ice cream?

Mr. McINNERNEY. We have used it. I don't think we do at all now, but there is no reason they shouldn't use milk powder, because it is a perfectly good product; adds to the solids if it is skimmed milk. Of course, they wouldn't use whole milk product.

Mr. BALLINGER. Do you ever use cream 2 or 3 weeks old or longer in your ice cream?

Mr. McINNERNEY. Oh, yes, if it is properly cooled. We buy the high flush period and put away cream and use it when we need it.

Mr. BALLINGER. Mr. McInnerney, I want to refer to "Exhibit No. 458." Is it not a fact, Mr. Innerney, that in 1930 the Dairy Products Corp. acquired 61 companies?

Mr. McINNERNEY. In the year of 1930?

Mr. BALLINGER. 1930.

Mr. STICKLER. These 1930 figures are based on after our acquisition of the Kraft Co., practically the same as National Dairy today; that is the reason we use 1930.

Mr. BALLINGER. Then in 1931 didn't the National Dairy Products acquire 23 companies?

Mr. STICKLER. I don't think so, no.

Mr. McINNERNEY. Are you trying to establish, Mr. Ballinger, that because we acquired companies we maintained our—well—

Mr. BALLINGER. Putting down the number of companies you have acquired.

Mr. BROMLEY. Mr. Ballinger, that won't quite work out, because if we did acquire companies or didn't, they were small units, inconsequential units. Our statistical department is able to go back to 1930 on a statistically comparable basis for our pay rolls and our employment, if that is the question you have in mind.

Mr. BALLINGER. Of course, that doesn't show on the chart at all.

Mr. BROMLEY. How is that?

Mr. BALLINGER. You don't state that on the chart at all that you have made proper allowance for the acquisition of new plants and pay rolls, and so forth, and so on.

Mr. BROMLEY. Probably we should have; we didn't.

Mr. BALLINGER. You still say it does?

Mr. McINNERNEY. I don't think it would amount to anything.

Mr. BALLINGER. I have here that you acquired 23 companies in '31—and we present this to the committee; 3 in '32, 12 in '33, 10 in '34, and 10 in '35. Is that not right?

Mr. McINNERNEY. I think it is relatively small, because we haven't acquired any companies since the depression; we of course are willing to acquire companies, but on the basis of the stock exchange we are unwilling to exchange our stock; consequently we can't acquire companies. They are very small, if we have acquired them.

Mr. BALLINGER. If it were true you did acquire these companies and if you were counting in the labor force which came to your organization as a result of acquiring these companies, this chart wouldn't mean very much?

Mr. BROMLEY. If that were true, it wouldn't mean very much, but it doesn't happen to be true.

Mr. BALLINGER. Why doesn't it happen to be true?

Mr. BROMLEY. Our statistical department makes an allowance for these figures. They are representative and comparable figures on pay roll and unemployment.

Mr. BALLINGER. Well, I would be very interested in finding out on what basis you make proper allowance, and so forth. Perhaps you can furnish it.

Mr. McINNERNEY. We will be very glad to furnish that.

Mr. BALLINGER. Now let me ask another question, Mr. McInnerney. It is true that the milk industry has certain peculiarities about it, such as, for instance, that people must have milk; therefore when a depression comes along isn't there a less decline in the volume of production of milk than almost any other commodity you could name?

Mr. McINNERNEY. Less production.

Mr. BALLINGER. Decline in value of production, volume of consumption?

Mr. McINNERNEY. Less decline in production.

Mr. BALLINGER. In consumption or production—quantity you are putting on the market or the quantity consumed?

Mr. McINNERNEY. I don't think there is any question as to the consumption as affected by conditions, but the older men in the business, a man like Mr. Supplee, who has been in the business a good many years, made the statement to us that our business wouldn't be affected

at all; that that was one thing; and I believe he told me this, that that was one thing that people would buy even though they went without many other things. That subsequently didn't prove to be true, but he had been through many depressions and made the statement that he wasn't affected.

Mr. BALLINGER. Then if the volume of milk which you sold fell off only slightly, wouldn't it be expected that your pay roll would stand up pretty well? Wouldn't that be true of the peculiarities of the industry?

Mr. McINNERNEY. That is what we contend, that we do not have much fluctuation.

Mr. BALLINGER. It is the peculiarity of the industry, not the National Dairy Products Corp., to keep the pay roll up.

Mr. McINNERNEY. I think we have a pay roll of a little over \$200,000 a day, and I think we have maintained it pretty well in all circumstances.

PER CAPITA CONSUMPTION OF MILK IN VARIOUS COUNTRIES COMPARED WITH UNITED STATES¹

Mr. BALLINGER. Now, Mr. McInnerney, you submitted a chart here on the consumption of milk in other countries, per capita consumption in other countries.² I want to ask you why you left Canada out?

Mr. BROMLEY. I didn't happen to have Canada, Mr. Ballinger, in the records that I had from the League of Nations.

Mr. SIMPSON. Consultation with the experts in the Department of Agriculture indicates that the figures for Canada are among the best figures. Canada has a higher per capita consumption than the United States. They also indicate, I think, that Switzerland and certain other countries have higher per capita consumptions. We were struck by the fact that you have selected the wine-drinking countries, like France and Italy, and a beer-drinking country, like Germany, but you have left out other countries, which wouldn't have proved your case so well.

Mr. BROMLEY. On that point, the book that I happen to have here is not this raw source of data for the chart to which you refer, but it does have a condensation of some of that material. This thing shows the per capita consumption of milk in liters per person per year. There would have to be some division to get that down to per capita in pints.

The two countries having a greater consumption of milk than the United States, as indicated by this record, are Switzerland and—well, there isn't any other country, but Sweden does have; Sweden isn't in this record.

Mr. BALLINGER. How about Denmark?

Mr. BROMLEY. Denmark is in excess of the United States, a fraction. We didn't take Denmark and Switzerland, as I didn't have comparable data on costs of milk and pay rolls in those two countries. The data that I had on pay rolls came from a survey by the National Association of Manufacturers, as indicated, I believe, on that chart.

¹ This subject is introduced, *supra*, p. 3052 et seq.

² "Exhibit No. 466," appendix, p. 3269.

Mr. SIMPSON. Yes; but as I understand it, the statement that Mr. McInnerney prepared stated that the only country that had a higher per capita consumption was Sweden.

Mr. BROMLEY. I think that refers back, does it not, to this chart [referring to "Exhibit No. 466"]?

Mr. SIMPSON. It may refer to the chart, but the statement is direct and misleading.

Mr. BROMLEY. The statement is pretty direct, and it is quite true, based on the available data, sir. Here are ten or a dozen countries in the world, and they are all leading countries in the world; and the United States, according to these figures, is among the leaders in per capita consumption of milk.

Mr. SIMPSON. We would expect it to be, with high incomes and a great measure of well-being, we would expect the United States to have a high per capita consumption of milk. I think it probably had one before the National Dairy or Borden appeared on the scene.

Mr. BROMLEY. Perhaps it did. Again, I merely wanted to point out that due to some reason or other people were drinking more milk in this country than is generally believed.

Mr. BALLINGER. Now, Mr. McInnerney, when National Dairy was incorporated, could you tell us something about the average price at which you sold a quart of milk in the United States? Would that be possible?

Mr. McINNERNEY. No.

Mr. BALLINGER. Would it be possible to tell it in any region, or in New York?

Mr. McINNERNEY. We weren't in New York at that time.

Mr. BALLINGER. Could you make the statement that you have appreciably decreased the cost of milk to the consumer since National Dairy Products has been operating?

Mr. McINNERNEY. We have a statement showing we have reduced it three-quarters of a cent. Mr. Van Bomel would be better able to answer that.

Mr. BALLINGER. Three-quarters of a cent for how many years?

Mr. VAN BOMEL. It would be well to refer to the statement for that. It talks about the reduction of three-quarters of a cent, as I recall it, in the last 5 or 6 years.

Mr. BALLINGER. Were Sheffield in existence in 1923?

Mr. VAN BOMEL. It has been in existence for 99 years.

Mr. BALLINGER. Wouldn't three-quarters of a cent reduction result from '23 on?

Mr. VAN BOMEL. That is three-quarters of a cent reduction wholesale, which is different from the price delivered in New York, and the consumer pays us retail.

Mr. BALLINGER. In other words, if you were selling milk at 11 cents a quart in 1923, you mean it has come down to about 10 cents now?

Mr. VAN BOMEL. I say that we have three-quarters of a cent less difference between the price we pay producer and the price we sell to consumer.

Mr. BALLINGER. That isn't what I asked you. I want to know if you can tell me whether in 1923, starting with that as a base year,

you were selling milk in quarts to consumer. Can you state either one way or the other whether you have reduced the price of milk, say a quart of milk to the consumer over the period from 1923 to '38, very appreciably?

Mr. VAN BOMEL. My records don't happen to go back to 1923. We became a part of National Dairy in the fall—November—to be exact, of 1925. My records go back to May 1925, prior to our acquisition by National Dairy. We at that time were selling milk from May until the fall—in May we sold it for 14 cents, July 20 raised to 15, August 22 raised to 16—no, on August 22 raised to 15, prior to our acquisition by National Dairy. At the moment, milk is selling retail, home delivered, that is to your front door, for $13\frac{3}{4}$ cents, which is lower than the period that I quoted. Sheffield Farms milk can be purchased at the stores for $12\frac{3}{4}$ cents.

Mr. BALLINGER. Isn't this price which is prevailing now the result of over-the-counter competition in New York City?

Mr. VAN BOMEL. Not at all.

Mr. BALLINGER. You are not paying a bit of attention to that competition?

Mr. VAN BOMEL. We certainly pay attention to it; yes, sir.

Mr. BALLINGER. Then, it would have some effect upon your price, wouldn't it?

Mr. VAN BOMEL. Our price retail for Sheffield milk is determined by our cost plus our handling charge, plus a very small fraction of a cent of profit.

Mr. BALLINGER. Let me ask you this question: Do you mean to say that there is only a penny difference in cost between distributing milk from door to door and selling it direct to the stores?

Mr. VAN BOMEL. No; there is about $2\frac{1}{2}$ cents difference in cost.

Mr. BALLINGER. Not any greater than that?

Mr. VAN BOMEL. For wholesale distribution it is about $2\frac{1}{2}$ cents less distributing cost than retail.

Mr. BALLINGER. Why don't you give the consumer the benefit of that difference in cost?

Mr. VAN BOMEL. We do. We sell to the store for $2\frac{1}{2}$ cents, $2\frac{1}{4}$, $2\frac{3}{4}$, varying at different times of the year. Over a period of years the storekeeper then adds a cent and a quarter, a cent and a half, in some instances, 2 cents, to the price he buys it at, and distributes it to the consumer at 1 cent, as a rule, less than our retail delivered price.

Mr. BALLINGER. If you sold in milk depots could you cut the cost of distribution appreciably?

Mr. VAN BOMEL. It would cost as much to deliver to a milk depot as it would to deliver to a store. We would have to furnish a union man who would be a high-priced man as compared with the normal clerk in the retail store, particularly the individually owned stores, and our cost of distribution would be higher than it would be through an individually owned store, certainly.

Mr. BALLINGER. If we were asking you to break down your cost, would you send them to us?

Mr. VAN BOMEL. I have them here, sir.

Mr. BALLINGER. We would like to look at them.

MR. SIMPSON. Are your costs for wholesale and home delivery significantly different from those which the attorney general, Mr. Bennett, obtained and published in his report to the Governor?

MR. VAN BOMEL. Attorney General Bennett¹ made an investigation of the milk business, and may I say in justice to him, that because of lack of appropriation and personnel, he asked us for certain figures and asked other dealers for certain figures and made a compilation of those figures that did not reflect our costs, whereas the Ernst & Ernst people, under the direction of the Legislature of the State of New York, operating under the agricultural commissioner, made an investigation, which was a fact-finding investigation by auditing offices, the most detailed audit I have ever seen made, and their figures are quite accurate.

MR. SIMPSON. Is there some question in the allocation of costs as between milk delivered in bottles and cottage cheese, butter, and other things which your wagons deliver? Doesn't the question of allocation make it rather difficult to say exactly what it costs to deliver a quart of milk by the various methods?

MR. VAN BOMEL. Our accounting department and management are very earnest in trying to portray a true picture of that to the management because it is their guide, and I believe our costs reflect a true picture. We weight everything very carefully and work it out in individual cases, and it is a result of a study of our own accounting department, National Dairy's accounting department and certified public accountants that seem to work out to be the truest figures that it is possible to arrive at.

We are quite satisfied that the distribution of that cost is being done fairly.

MR. SIMPSON. I am convinced that you attempt to do it fairly, but there is no uniformity in accounting methods for all distributors all over the United States.

MR. VAN BOMEL. There certainly is not. If there were, there wouldn't be as many misquotations as to the cost of delivery and handling milk as there is today.

MR. BALLINGER. I would like to ask a question. Could you answer this one for me? First of all, do you make evaporated milk?

MR. VAN BOMEL. We do.

MR. BALLINGER. Where do you make it in the United States?

MR. VAN BOMEL. In New York State.

MR. BALLINGER. Can you tell me how much it costs you? Of course you make evaporated milk out of surplus milk.

MR. VAN BOMEL. We do.

MR. BALLINGER. And fluid milk, of course, is made out of what they call class 1 milk.

MR. VAN BOMEL. Fluid milk is class 1 milk.

MR. BALLINGER. In other words, the cost of fluid milk is higher than you buy it from the farmer. When you buy class 1 milk from the farmer, you pay a higher price than you do for surplus milk.

MR. VAN BOMEL. We do.

MR. BALLINGER. So there is a differential against fluid milk at that point.

MR. VAN BOMEL. A very definite one.

¹ Of the State of New York

COST OF PROCESSING EVAPORATED MILK GREATER THAN THAT FOR FLUID MILK

Mr. BALLINGER. Now, stop at that point, and let me ask you the next question. How much does it cost you to process a quart of fluid milk, and then how much does it cost you to process a quart of condensed milk, or evaporated milk?

Mr. VAN BOMEL. Processing a quart of fluid milk is about nine-tenths of a cent.

Mr. BALLINGER. What is the cost of processing a quart of evaporated milk?

Mr. VAN BOMEL. I haven't our costs here, and I should hate to approximate. I will be glad to send them to the committee if they should like to have them.¹

Mr. BALLINGER. Will you give me just an idea? We won't hold you to this. Is it higher, or lower?

Mr. VAN BOMEL. Very much lower as to processing; yes, very much lower.

Mr. BALLINGER. Would that exclude cans, cases, labels?

Mr. VAN BOMEL. I am speaking of processing.

Mr. BALLINGER. Processing includes getting it right up to the point where you are going to deliver it into the delivery system.

Mr. VAN BOMEL. No.

Mr. BALLINGER. I want to get it at that point.

Mr. VAN BOMEL. Evaporated milk costs more, but I am unwilling to state from memory.

Mr. BALLINGER. Let me put it this way. Fluid milk is on the stoop in the delivery system, and evaporated milk is on the same stoop—the total cost, that is the processing cost, payment to the farmer, and everything brings these two containers and bottles out without a great discrepancy in cost.

Mr. VAN BOMEL. There is a discrepancy.

Mr. BALLINGER. But not great.

Mr. VAN BOMEL. There was shown in the chart relative to the Boston situation, chart 18 (referring to "Exhibit No. 474"), where the cost of milk that went into a can was 2.7 cents a quart, whereas the selling price to the grocer was 5.81 cents. By subtracting you can establish that that cost of all handling, processing, cans, cases, and labels, freight, and labor, was apparently 3.18 cents a quart, which is approximately equivalent to a quart of fluid milk.

Mr. BALLINGER. There is not a great difference between the cost of processing and this includes payment to the farmer of a quart of fluid milk and a quart of evaporated milk—I mean there is not a very great difference.

Mr. VAN BOMEL. There is a difference, because you have got a can, a label, and freight in there, whereas in your nine-tenths of a cent for processing that does not provide freight to New York, doesn't cover all of the items.

Mr. BALLINGER. All right. You estimated the total cost there as 3 point what?

Mr. VAN BOMEL. According to this chart it is 3.18 cents.

Mr. BALLINGER. What do you sell that milk for, that evaporated milk?

¹ The figures were supplied in a letter dated October 23, 1939; it is included in the appendix on p. 328.

Mr. VAN BOMEL. We sell it to wholesale grocers, chain stores, and so forth.

Mr. BALLINGER. At what price?

Mr. VAN BOMEL. I am unwilling to quote that from memory.

Mr. BALLINGER. Just approximately. You don't sell it for 9 cents, do you?

Mr. HOVEY. Might I interrupt just a minute? I think from listening to your questioning that you are assuming the cost of milk is about the same.

Mr. BALLINGER. No; I am not assuming the cost is the same. I am assuming there is a higher cost in fluid milk than there is in the production and processing of evaporated.

Mr. HOVEY. I understood you to say including the cost to the farmer the cost is about the same.

Mr. BALLINGER. No; I am assuming there is a higher cost in the purchase of milk. Mr. Van Bomel tells me there is a lower cost in the processing of fluid milk than there is in evaporated milk. I want to see how great is the divergence between the total cost of processing a quart of fluid milk and evaporated milk.

Mr. VAN BOMEL. We will be very glad to make a table on that and send it down.

Mr. SIMPSON. When you make that table, it might be better to take another market than Boston, which is said to have a very high class 1 price.

Mr. VAN BOMEL. Class 1 doesn't affect evaporated.

Mr. SIMPSON. Not directly, but the price relations indirectly affect the costs of fluid milk allocated to all milk products.

Mr. BALLINGER. You give us 3.14. That is just an estimate, we will get accurate figures, for processing a quart of milk. Could you give me a comparable estimate for the cost of processing a quart of fluid milk?

Mr. VAN BOMEL. There is no comparable case, as we do not sell the container. Fluid milk has to be delivered within a very short time. While I have taken it on a trip and consumed it on the 24th day and found it satisfactory, still that isn't practical. Evaporated milk can be put in storage and sold when the market comes for it. We manufacture all of our evaporated milk, and, in fact, went in business to make a better market for farmers for their surplus milk than we could get out of it in cheese so as to return them a greater amount of money, and we manufacture our evaporated milk all during the period of surplus production. The plants are shut down several months of the year during short production.

Mr. BALLINGER. Let me ask you this: What is the difference in the system of distribution of selling bottled milk to stores and selling them evaporated milk?

Mr. VAN BOMEL. Evaporated milk is sold in carload lots to wholesale grocers or chain stores. They put it in warehouses and as their milk goes out of the store, that store holds this milk and it goes out and puts it on the shelf, and as the customers come in for it, they use down on that quantity until it is gone, and then reorder, with no refrigeration, no care other than putting it on the shelf, keeping the label reasonably clean. Fluid milk has to be under refrigeration from within an hour after it is milked; it has to be cooled to a tem-

perature of 50 degrees and kept below that temperature until the time it is consumed, which is a highly expensive thing.

Mr. BALLINGER. We asked for an estimate of the cost of distributing evaporated milk and the cost of distributing fluid milk.

Mr. VAN BOMEL. The cost of distributing evaporated milk in Boston, according to the figure I quoted, is 3.18 cents a can.

Mr. McINNERNEY. Are you of the opinion that we distribute evaporated milk on our wagons?

Mr. BALLINGER. Oh, no. I am of the opinion when you sell milk to stores that the distribution systems are not so far apart in cost. I want to see how far apart they are, because your differential between your door-to-door delivery system and your store is only a penny. Now, I, for one, am just a little skeptical.

Mr. VAN BOMEL. Ours is more than that. That is after the storekeeper takes out the gross profit that he wants.

Mr. BALLINGER. After you take out everything, I still am skeptical. I just want to know. I want to compare these two distributing systems and see just what happens after you make the comparison.

Mr. VAN BOMEL. It is very easy to compare it. Evaporated milk is sold generally out of stores for 6 cents, and in instances at a less price. I don't know what the price in Washington is today. It depends on how much competition there is between the stores on evaporated milk and whether they are selling it as a loss leader or not.

Mr. McINNERNEY. We have nothing to do with the resale price of evaporated milk.

Mr. BALLINGER. I am going to turn this questioning over to Dr. Simpson. You criticized the figures presented by Dr. Howe showing the difference between class 1 price and class 2, and I am going to ask Dr. Simpson to direct some questions on that point.

Mr. SIMPSON. You have taken Dr. Howe's table and given some figures of your own in order to show that Dr. Howe did not show the proper spread. Now, I think it is very clear from Dr. Howe's statement that he was getting at a somewhat different thing from what you are getting at. Dr. Howe gave us the prices paid the farmer f. o. b. city plant for class 1 milk. He stated clearly class 1 milk. In your table you say prices paid f. o. b. city. That isn't quite as direct and as complete a statement. You are using class 1 milk as prices paid farmers f. o. b. city on page 9?

Mr. BROMLEY. Certainly; class 1 milk.

Mr. SIMPSON. Dr. Howe quite frankly stated it was class 1 milk. Had he tried to prove his case he might have given what would not have been an overstatement and might have put the average price which the farmer received. But he took the class 1 price, as you did, although you don't state it was the class 1 price.

Mr. BROMLEY. There is only one price, and that is the class 1 price, to compute spread on fluid milk. Therefore, we didn't state it.

Mr. SIMPSON. Even if we could accept that, I think your table would have been better if it had been stated that the price was the class 1 price.

Mr. McINNERNEY. It is always computed on that basis.

Mr. SIMPSON. Prices paid farmers f. o. b. city might have included milk for other uses.

Mr. McINNERNEY. Not in a fluid milk table.

Mr. SIMPSON. Then, you have taken 8 cities. He took 12.

Mr. BROMLEY. The reason for that is, we only took the eight cities where we operate. We don't operate in those other cities.

Mr. SIMPSON. You criticize Dr. Howe's table and introduce new assumptions to suit your purpose. He did not mention National Dairy Products Corporation. He said "four distributors," and he was not referring to National Dairy Products Corporation, and did not state that he was referring to National Dairy Products Corporation.

There is one interesting thing about your table, and I am glad you presented it, even though it was a criticism of our evidence. There are some very interesting figures there.

In your second column you have selling prices of distributor; retail and wholesale average. I might direct your attention to the Philadelphia figure. Dr. Howe gave, as a home delivered price in Philadelphia, 12 cents. You gave, as the average of the home delivered and the wholesale price, as I understand it, 11.72 cents. In other words, there was a quarter of a cent spread, difference, not spread, between the figure which Dr. Howe arrived at and which you presented. Does that indicate that your average price charged wholesalers and for retail milk was only a quarter of a cent less than the home-delivered price?

Mr. BROMLEY. It doesn't. It comes about because the greatest portion of our Philadelphia company happens to be retail.

Mr. SIMPSON. Nevertheless, even though the percentage of your wholesale distribution is small, and must have been small in a number of these cities, the fact remains that the average which you give for wholesale and retail milk is so very close to the home delivered price which Dr. Howe presented that that seems to indicate to me that the spread in these cities—not New York, but Philadelphia, Baltimore, and Washington—the difference between that which you charge the wholesaler and that which you charge at retail is very small.

Mr. BROMLEY. That comes about for this reason, Doctor. In these figures, which are actual figures, are included our sale of milk in half-pint bottles and pint bottles. It is quite often the case that when you have a 13-cent price for a quart of milk a pint of milk costs 7 cents. We took the aggregate quartage that we sell and the aggregate dollars we received, dividing one by the other.

Mr. SIMPSON. Is that good statistical practice? In accounting in the canning industry, with which I have had some experience, I would never divide the total number of cans of different sizes into the total costs to get an average cost, even though the average cost of the fluid content may come out correctly. A pint of milk costs more than half as much as a quart of milk.

Mr. BROMLEY. The question involved, as we understood it, Doctor, was the matter of the material cost; that is, what the farmer got was the all-important question. This does give us the selling price of that material and the cost of that material.

Mr. SIMPSON. I think that the reason we brought this up into this discussion is that you have treated Dr. Howe's figures unfairly. He said, quite frankly, "I am merely measuring the spread between the home-delivered price and what the farmer was paid for class 1 milk."

I was merely interested in the fact that your average figure here was so close to the home-delivered price that it seemed to corroborate the testimony that we have been giving, namely, that in many cities, perhaps most cities, the consumer who is willing to go to the store pays very little less than the consumer who has his milk delivered on the doorstep.

Mr. McINNERNEY. We sell it to him at the difference in the cost of delivery. What he does with it isn't our affair.

Mr. SIMPSON. There are some cities, Mr. McInnerney, in which your company does not make a difference between the home-delivered price and the store price equal to the difference between the cost of retail and wholesale distribution.

Mr. VAN BOMEL. Our figures had only to do with the New York market.

Mr. McINNERNEY. In Pittsburgh that situation exists.

We have relatively little wholesale business, so our price is a little longer in Pittsburgh, but in most markets, where it isn't controlled—it happens to be controlled in Pennsylvania by the milk commission except as applied to Philadelphia—the wagon price and store price are the same, but the milk that we sell to the store averages the difference in the delivery cost to us just the same.

Mr. SIMPSON. You mean that invariably the difference between the price you charge to the wholesaler and the price you charge for milk delivered to the doorstep equals the cost of distribution?

Mr. McINNERNEY. Not always equals—practically.

Mr. SIMPSON. Do you happen to know whether in Washington the poor woman who goes to the store to pick up a quart of milk pays any less for it than the lazy people who want the milk delivered to their doorstep?

Mr. McINNERNEY. I don't happen to know in Washington, but if the price is the same, she doesn't get an advantage in carrying the milk home. It is an economic problem and I don't think it is right.

Mr. SIMPSON. And don't you think she who goes to the store indirectly helps to pay for the cost of delivery?

Mr. INNERNEY. No; because the storekeeper just happens to make a little more profit; that is all.

Mr. SIMPSON. You don't sell to the wholesaler in the city of Washington as much below the retail price as is equaled by your cost of distribution.

Mr. McINNERNEY. I think we do. I will not attempt to answer that question definitely, but I think we do.

Mr. SIMPSON. I think it would be very interesting if you would give us figures for the city of Washington.

The CHAIRMAN. Mr. Montgomery.

CONSUMER PROTECTION SOUGHT

Mr. MONTGOMERY. Mr. McInnerney, you stated that if, as reported by the food and drug department of the State of Alabama, two of your companies had been selling some butter to the consumer that was contaminated, it was the Government's fault—the Government protected the consumer.

Mr. McINNERNEY. I say they scored the butter and it was sold at that score. I don't happen to know specifically about Alabama. It is relatively a very small thing.

Mr. MONTGOMERY. Do you know it to be a fact that the Government scores all butter that enters into interstate commerce?

Mr. McINNERNEY. I think they do; they attempt to.

Mr. MONTGOMERY. You wouldn't be sure whether or not you are right on that?

Mr. McINNERNEY. I think there is a regulation on that. I am not sure, personally.

Mr. MONTGOMERY. May I correct the record on that?

Mr. McINNERNEY. If they don't—I was always under the impression that all butter sold was scored by the Government.

Mr. MONTGOMERY. Don't you know that the scoring system is operated entirely on a voluntary basis? If the dealer asks for it, the Government will score it.

Mr. McINNERNEY. I would have to put that to the practical men. I understood—our butter business is relatively small in proportion to our total business.

Mr. MONTGOMERY. You stated you had certain people in your plant scoring butter in Iowa. What is it they are doing with the butter—giving you the score of it?

Mr. McINNERNEY. Our plant is not a manufacturing plant in Dubuque, Iowa, and the score is kept as established by the Government man who is there and posted on every lot of butter. We have a complete record of the scoring of that butter.

Mr. MONTGOMERY. Do you know, Mr. McInnerney, that the scoring of butter is simply a grading process which is based on its flavor?

Mr. McINNERNEY. Yes; largely.

Mr. MONTGOMERY. Do you know that contamination of butter by the inclusion of insects and rodent hairs and these extraneous matters, organic and inorganic, that were referred to in this other report, is not determined by the tasting of butter?

Mr. McINNERNEY. I think it would have an effect on the flavor, but I think that is true. I don't think it would be as good if they started with bad material. I admitted that.

Mr. MONTGOMERY. Don't you know it requires a laboratory examination of the butter to ascertain whether those extraneous substances are included?

Mr. McINNERNEY. I assume it does. It would require a laboratory, our men say.

Mr. MONTGOMERY. Do you know whether the Food and Drug Administration subjects butter to such examinations in order to determine whether it has these things in it?

Mr. McINNERNEY. I should think they would.

Mr. MONTGOMERY. Do you know whether the Food and Drug Administration is able, with its moneys, to test all the butter that is moving in interstate commerce?

Mr. McINNERNEY. I should think it would be very difficult.

Mr. MONTGOMERY. Well, since you have thrown the burden on the Government by your answer, don't you think it would be a good idea if the Food and Drug Administration were able to examine all your butter to see that nothing was wrong?

Mr. McINNERNEY. I think anything that goes to the public should have very definite protection.

Mr. MONTGOMERY. I am awfully glad to find you are in favor of Government regulation on the consumer side of the picture, anyway.

Mr. McINNERNEY. I think the handler of butter has the same obligation to protect the public as the handler of milk. I think the Government is doing a better job constantly, as I think we are doing a better job.

Mr. MONTGOMERY. Don't you know the Food and Drug Administration, is literally starved to death to get enough money for the inspection of butter?

Mr. McINNERNEY. I don't know that.

Mr. MONTGOMERY. In your prepared statement and several times during the day in the discussion you have stated, as I understand it, your desire to be able to sell milk to consumers at a lower price. I think that there is certainly an objective on which you and I are very much in agreement, although I don't think we would quite agree as to the means whereby that is to be brought about, since you want to do it mostly, it seems, by reducing class 1 prices to producers. Do you think the National Dairy companies are doing all they can, given the class 1 prices and the labor rates they are paying, to sell milk to consumers at lower prices?

Mr. McINNERNEY. I think they are, as evidenced by the fact that we have little or no profit in the average quart of milk.

Mr. MONTGOMERY. You stated a moment ago that in most markets you are selling milk to the stores at such a price that it can be sold to the consumer at a lower price than the delivered milk.

Mr. McINNERNEY. I think the average difference is between 2 and 2½ cents to the store. In other words, if we have a 12-cent price in any market, I think that same price to the store would be 9½ cents.

Mr. MONTGOMERY. I am asking this question of fact. Is it a fact that in most of the markets where you operate the consumer can buy your milk at a lower price at the store than she can buy it delivered from your wagon?

Mr. McINNERNEY. I think that is true.

Mr. MONTGOMERY. Can you name those markets?

Mr. McINNERNEY. The New York market is one.

Mr. MONTGOMERY. Can you name any other?

Mr. McINNERNEY. The Philadelphia market is one.

Mr. MONTGOMERY. Is that all?

Mr. McINNERNEY. Oh, no; Cleveland, Detroit, the Boston market, the St. Louis market. We have a very large chain-store business in St. Louis that is very much less than the wagon price.

Mr. MONTGOMERY. Is it a fact that the consumer pays the same price in the District of Columbia at the store as from the wagon?

Mr. McINNERNEY. That question has been asked me. I don't happen to know that particular instance.

Mr. MONTGOMERY. Does the same situation obtain in Baltimore, Md.?

Mr. McINNERNEY. I think the price is the same in Baltimore.

Mr. MONTGOMERY. In Kansas City, Mo.?

Mr. McINNERNEY. I am just told that the Government sets the price in Kansas City? Do they not?

Mr. MONTGOMERY. The Government doesn't set any resale prices anywhere.

Mr. McINNERNEY. Just to the farmer. I beg your pardon.

Mr. MONTGOMERY. Do you sell fluid milk in Albany, N. Y.?

Mr. HOVEY. Yes; we sell fluid milk in Albany.

Mr. MONTGOMERY. Are the store and delivered prices the same?

Mr. HOVEY. I think the store price is 1 cent less.

Mr. MONTGOMERY. Can you testify to that as a fact, Mr. Hovey?

Mr. HOVEY. I am very certain it is.

Mr. MONTGOMERY. Is it the same in Syracuse?

Mr. HOVEY. I wouldn't know.

Mr. MONTGOMERY. How about Canton, Ohio? Is it the same there?

Mr. McINNERNEY. I don't know. We have a plant in Canton, but I don't know.

Mr. MONTGOMERY. Cleveland, Ohio?

Mr. McINNERNEY. That is a detail. Of course, if we give the distributor of milk $1\frac{1}{2}$ cents, which is about the average difference, if he elects to keep it all, we couldn't stop him.

Mr. MONTGOMERY. You don't have anything to say in any market about what the retailer sells the milk for?

Mr. McINNERNEY. We don't control the retail price.

Mr. MONTGOMERY. I thought you stated this morning you have left to your local companies to determine what their price is, didn't you, Mr. McInnerney?

Mr. McINNERNEY. Very largely in New York we have nothing to do with it and don't attempt to.

Mr. MONTGOMERY. I understand from that that the National Dairy Products Corporation, as such, is not in a position to carry out this desirable policy that you state in the conclusion of your statement.

Mr. McINNERNEY. You understand—

Mr. MONTGOMERY. That the National Dairy Products, as such, is not in a position to carry out this desirable policy of lowering prices to consumers?

Mr. McINNERNEY. I didn't say that. I said that if the National Dairy Co. exercised its ownership any time it wished.

Mr. MONTGOMERY. And if in these cities, any I have listed, the consumers are paying the same price at the store as delivered it means you haven't exercised the policy to have that price lowered.

Mr. McINNERNEY. Well, we wouldn't have—I thought I made it clear that we don't attempt to control the resale price in a store.

Mr. SIMPSON. Don't you suggest in New York the resale price to the consumer?

Mr. McINNERNEY. No.

Mr. DAVIS. Isn't it a fact, Mr. McInnerney, that generally speaking, you charge the stores so much for the milk that they can't sell it for more than a cent less?

Mr. McINNERNEY. I don't know that that is so. I think it depends on what basis he wants to do business. He sells milk daily. We agree to supply him that milk to do business with. The turn-over is such he may be willing to take a less percentage of profit, but still his profit on his total sales would be satisfactory.

Mr. DAVIS. Let's take Albany, N. Y., which has been referred to and which is close to home to you. What is the retail selling price of a quart of milk to the consumer in Albany?

Mr. HOVEY. I think 12 cents now. Fifteen cents very recently, but I think it has been decreased to 12 cents.

Mr. DAVIS. You say you think the stores sell it a cent less. Now, how much do you charge the store for it in Albany?

Mr. HOVEY. I am quite certain, Judge, that we are charging the stores 9½ cents.

Mr. DAVIS. Nine and one-half, and if they sell it for 11 they make only a cent and a half?

Mr. HOVEY. That is true.

Mr. DAVIS. Well, isn't it generally true that you sell it to the stores in all your territory at a price that they won't make over a cent or cent and a half profit, even though they sell it for 1 cent less than the house delivery price?

Mr. HOVEY. Judge, that is probably true, because our difference in cost we believe to be only 2 to 2½ cents per quart.

Mr. DAVIS. Now, if Mr. Montague said that the cost of delivery to the home is about three times what the delivery to the store is, you don't agree with that?

Mr. HOVEY. I think probably he was referring to the cost of the truck itself and the driver possibly. I don't believe it referred to containers and a number of other things, Judge, but of course I can't tell; I can't have any real opinion.

Mr. DAVIS. In that connection he told you that delivery to the stores was in trucks and in cases and in larger quantities, whereas the delivery to the house was in small quantities, a quart or two and so on, and said that, as I understood it, the relative cost was three and maybe four times as much?

Mr. McINNERNEY. That isn't our experience. It may be his, but it isn't ours.

Mr. HOVEY. Anyway, Judge, in the average market probably, and this would not apply in New York, and therefore could not be compared because they have different conditions there, but in the average market the cost of delivery retailed is probably 4 to 4½ cents and when we say that the cost of serving wholesale trade is 2 to 2½ cents per quart less, then we are agreeing that the cost is 50 percent less, or more; more than 50 percent less.

Mr. DAVIS. That is all, Mr. Chairman.

Dr. HOWE. Mr. Chairman, may I ask a question? Mr. McInnerney, there seems to be agreement on your part that some governmental supervision should be maintained as to abuses at least according to the fixing of the price which the producer shall receive. That was discussed this morning at length. It was in the public interest to provide for the protection of the producer by a fixation of price?

Mr. McINNERNEY. I don't think I understood you, Dr. Howe.

Dr. HOWE. That due to the demoralization of the producers' market that there should be some kind of governmental cooperation or supervision by which the low distressed price which the farmer received, such as in the New York market at the present time, should be corrected by governmental supervision or control?

Mr. McINNERNEY. Well, we, I think, tried to establish that in our opinion that might be the best way to correct a very unfortunate situation. We didn't on a long-term basis endorse Government control in any way. We say in an emergency case such as this is it may be the only way to correct it, through Government agency.

Dr. HOWE. So at least that much. Now it was also stated that you were very proud of the fact that you were paying your drivers and

other employees a higher wage than others and implied, I think, that you were satisfied to have that wage controlled by the trade union?

MR. MCINNERNEY. I didn't say that.

DR. HOWE. Or at least you were proud of that condition that you were paying a satisfactory living wage to your workers, which is established through trade unions. That leaves just one question. Why have you omitted a discussion or an admission that the same kind of governmental control, supervision, should be made of the distributors, whose share in the 12-cent retail price is more than that received by the farmer about which you complain so much?

MR. MCINNERNEY. Well, I think we established that we made little or no money in the fluid-milk business at the present time and we think we are entitled to a little more profit than we are getting.

DR. HOWE. If, however, the producers' price is to be fixed on the cost basis, is there any reason why the distributor's charges should not be fixed by the same agency?

MR. MCINNERNEY. Well, I think I made it clear. I wasn't for any governmental regimentation of any business—not only ours but any other business.

DR. HOWE. But the same rule would apply as to one of the three elements in the distribution as in others, would it not?

MR. MCINNERNEY. I am trying to say that we would accept, if that is the way out, a Government control of the situation temporarily, but not for a long pull.

DR. HOWE. That is all.

THE CHAIRMAN. Mr. Montgomery hadn't finished his line of examination.

MR. MONTGOMERY. Mr. McInnerney, this morning or afternoon in answer to questions you told about supplying this milk for delivery to families on welfare cards in New York City at 8 cents a quart in response to the mayor's request to give help. That was about 1934, wasn't it, that you started that?

MR. MCINNERNEY. Started about that time, continuing up until today, still continuing.

MR. MONTGOMERY. Isn't it a fact, Mr. McInnerney, that you discontinued that at one time in 1936?

MR. VAN BOMEL. In 1936 it became profitable to dealers buying on the blended price to supply that milk, and they asked if we wanted to continue it, and we said, "We are perfectly willing to let somebody else have that." When it became unprofitable to those fellows buying on the blended price, the mayor's office, through the commissioner of health, asked us if we could take five of the stations, and we told them we didn't like to; we gave it up when it was profitable, we didn't see why we should take it when it was unprofitable.

MR. MCINNERNEY. Not profitable to us, but profitable to those who took it.

MR. VAN BOMEL. Yes; he said the mayor would appreciate it very much, and we said in deference to the mayor we would take them on again. That later became 30,000 quarts at one time. Now has decreased again because people can buy milk for that price at the nearby store.

MR. MONTGOMERY. Mr. Chairman, can Mr. Van Bomel be sworn on his testimony?

The CHAIRMAN. Do you solemnly swear in the testimony you are giving, to tell the truth, the whole truth, and nothing but the truth?

Mr. VAN BOMEL. I do.

TESTIMONY OF L. A. VAN BOMEL, PRESIDENT, SHEFFIELD FARMS
COMPANY, NEW YORK CITY

Mr. VAN BOMEL. May I reiterate?

Mr. MONTGOMERY. Mr. Van Bomel, isn't it true that in the first part of September 1936 the class 1 price of milk was raised about a cent a quart by order of the State milk control board?

Mr. VAN BOMEL. It was true about that time. I am not sure of that date.

Mr. MONTGOMERY. Is it a fact that within a week or 10 days following September 4, 1936, you told the Commissioner of Health, New York, that if you were to continue to deliver this relief milk it would have to have a 9-cent retail price?

Mr. VAN BOMEL. When that price raise went in effect we did.

Mr. MONTGOMERY. And is it a fact that the commissioner of health said that under the regulations under which he was operating he could not raise the price, but that hearings would be held to see if the regulations could be amended?

Mr. VAN BOMEL. I don't know of that.

Mr. MONTGOMERY. Is it a fact that on a certain day within about that period in the morning you notified the commissioner of health that you would not be delivering this milk on the following morning?

Mr. VAN BOMEL. That is not so; we notified them a longer period in advance than that; I think it was 2 days.

Mr. MONTGOMERY. You gave him 2 days' notice?

Mr. VAN BOMEL. Yes.

Mr. MONTGOMERY. Is it a fact that The Borden Co. gave the same notice at substantially the same time?

Mr. VAN BOMEL. I do not know.

Mr. MONTGOMERY. Is it a fact that you and The Borden Co. were delivering the bulk of the milk going to those stations?

Mr. VAN BOMEL. I do not know that. I know we were delivering a large quantity of it.

Mr. MONTGOMERY. It is a fact that you both did stop serving those stations about that time, is it not?

Mr. VAN BOMEL. At the mayor's insistence, as I said before, we offered to go on at the 8-cent price; he said he had people that desired the business and we told him we would be very glad to have him give it to those people. Those people turned out to be people not buying on the classified form of price, most of whom their licenses to do business under the State-control law had been withdrawn.

Mr. MONTGOMERY. Is it a fact the commissioner of health had 24 hours—or you say 48 hours' time in which to get enough dealers to supply that milk to these people coming to the station?

Mr. VAN BOMEL. That is not true. We told him we wanted an increased price for it because our class 1 price had gone up. He said that was impossible. We said, "Well, we will go on." We wanted to raise the price 48 hours after the time we took it up with him.

Mr. MONTGOMERY. He said it was impossible under the existing regulations. Is that all he said?

Mr. VAN BOMEL. We said it was impossible to continue supplying that at that price, but later under the mayor's insistence we told him we would go on. He then found people who wanted that, people who were not paying class 1 price, some of which dealers had had their licenses revoked under the control law.

Mr. MONTGOMERY. Now let's get this clear. You are testifying, then, that that business of those stations was transferred from your company to these other companies because they desired the business. Is that the sole reason?

Mr. VAN BOMEL. As far as I know it is the sole reason.

Mr. MONTGOMERY. You did not at any time refuse to deliver the milk?

Mr. VAN BOMEL. We asked for a cent increase in price; they said it would not be granted; we finally consented to sell, to continue at 8 cents in deference to the mayor's wishes, and they said, "We have somebody else that will supply it," and we said, "Fine."

Mr. MONTGOMERY. I will let that ride. Mr. McInnerney, during your statement this morning you said, or gave us one reason why you did not have a monopoly, not even a monopoly in any market, in any local market, because no company can control the law of supply and demand, which fixes prices. How many companies in the National Dairy system are selling milk—fluid milk—in New York City.

Mr. McINNERNEY. Van Bomel can answer that perfectly.

Mr. VAN BOMEL. I have as close figure as I could get. Wait until I understand your question, please. May I have it repeated?

Mr. MONTGOMERY. How many of your companies are selling fluid milk in New York City?

Mr. VAN BOMEL. Three.

Mr. MONTGOMERY. What are they?

Mr. VAN BOMEL. Two in New York City, three in the metropolitan area.

Mr. MONTGOMERY. What are the names of those companies?

Mr. VAN BOMEL. Sheffield Farms Co., Muller Dairy, Consumers' Dairy.

Mr. MONTGOMERY. Do you have a company named Breakstone selling milk in New York City?

Mr. VAN BOMEL. Sheffield Farms sells Breakstone milk on wholesale wagons only.

Mr. MONTGOMERY. Sheffield Farms sells Sheffield milk and Breakstone milk?

Mr. VAN BOMEL. On wholesale wagons only.

Mr. MONTGOMERY. What is this Breakstone milk? Does it come from the same plant?

Mr. VAN BOMEL. It does not; it comes from different sources of supply. When you say plant, I assume you mean sources of supply.

Mr. MONTGOMERY. I mean pasteurizing plant.

Mr. VAN BOMEL. Pasteurizing in the same pasteurizing plant in New York City; yes.

Mr. MONTGOMERY. And the milk comes from different places in the country?

Mr. VAN BOMEL. Yes.

Mr. MONTGOMERY. And is kept separate after it gets into the plant?

Mr. VAN BOMEL. Yes.

Mr. MONTGOMERY. Now, during the last 3 months of last year at what prices were Breakstone milk and Sheffield milk sold to the retail stores in New York?

Mr. VAN BOMEL. Sheffield milk was sold—that was under the period of control—from September 1 at 13¾ cents. Breakstone milk was being sold to stores at 21½ cents less than that.

Mr. MONTGOMERY. What price is that to the store?

Mr. VAN BOMEL. Eleven and a quarter cents.

Mr. MONTGOMERY. And at what prices was Breakstone milk sold?

Mr. VAN BOMEL. Meeting competition, meeting competitive prices where we had to; average price we estimate to be about a half cent higher than chiselers', if I may use the term.

Mr. MONTGOMERY. Was it being sold as low as 9¾ cents at any time?

Mr. VAN BOMEL. I have no definite record of that here, but I would not be surprised if it were sold down in the neighborhood of 10 cents.

Mr. MONTGOMERY. What is the difference in the quality of the Breakstone and the Sheffield milk, Mr. Van Bomel?

Mr. VAN BOMEL. The Sheffield milk has been built up—I don't want to appear to advertise here, but I must say that Sheffield milk has been built up over a period of years from the same dairies with comparatively few changes, in some instances the third generation on farms of dairies that have continuously delivered milk to us, by premiums and incentives and constant work on the part of our veterinarian and inspectors, way in advance of any department of health or any controlling agencies.

That control that Mr. McInnerney has spoken of through the laboratories, and so forth, has developed a superior type of milk.

There appeared in the market as a result of people not living up to the first control laws we were subjected to, which were State control laws, a milk from other sources that was sold on the average or ultimate price the producer got, the classified price, or the blended price. That milk began taking business from Sheffield Farms. We saw 5, 10, 15, 20 percent, and up to 30 percent, of our business of Sheffield Farms' milk disappearing, so we thought that it was sound, in order to keep the load factors in those plants and the cost of operating those plants on a reasonable basis, to buy this milk in the open market a little over a year ago now and sell it on Sheffield rigs, decreasing the unit cost of delivery on the Sheffield rigs—wholesale rigs—and reducing the cost in the pasteurizing process in the plants.

Mr. MONTGOMERY. In what particulars is the Sheffield milk superior to the Breakstone milk?

Mr. VAN BOMEL. Because it comes from regular dairies. Breakstone milk comes from any source of supply where we can buy it to the best advantage that it is approved by the Department of Health of New York. Sheffield standards are well above the Department of Health of New York and have been for 98 years.

Mr. MONTGOMERY. You don't understand me. I am just a dumb consumer and in consuming I am not drinking in milk the place it comes from. I want to know what is the difference in the milk.

Mr. VAN BOMEL. When I go into a restaurant I pick out food that looks like it is clean——

Mr. MONTGOMERY (interposing). You mean the Breakstone milk is not clean?

Mr. VAN BOMEL. I don't mean that. I mean it is passed by the department of health who makes inspections, but it is not before pasteurization of as low a bacteria count as Sheffield. It is not supervised as Sheffield milk is. Bacteria counts of individual farmer's milk are not run as Sheffield's producers are run so we can trace any sort of a high count. All the sanitary surroundings that you can put around a milk are put around Sheffield. Breakstone milk is approved by the Department of Health of the City of New York.

Mr. MONTGOMERY. Does the consumer buying Sheffield and Breakstone milk in the stores during this period pay a higher price for the Sheffield?

Mr. VAN BOMEL. As a rule, Sheffield is sold higher than Breakstone.

Mr. MONTGOMERY. Does the consumer know that she is buying milk from the Sheffield plants?

Mr. VAN BOMEL. The Sheffield wagon drives up to the door with a very large sign—to the door of the store—with a large sign painted on, Sheffield Farms.

Mr. MONTGOMERY. So the consumers' way of knowing it is to be there when the wagon arrives?

Mr. VAN BOMEL. Not necessarily. Our competitors keep them pretty well advised.

Mr. MONTGOMERY. Was there any rebating to retailers on the sale of this Breakstone milk during last September?

Mr. VAN BOMEL. Rebating, I see no cause for rebating. There was no resale price control.

Mr. MONTGOMERY. I was asking whether there was any; I wasn't asking the cause.

Mr. VAN BOMEL. I know of none. I see no reason why there should be.

Mr. MONTGOMERY. Has the testimony which Rose Haly gave in the case of the *United States v. Rock Royal Cooperative, Inc., et al*, in New York State this January, been called to your attention?

Mr. VAN BOMEL. Not in detail. I know of the case, but I don't know of the testimony.

Mr. MONTGOMERY. I will quote a paragraph of the testimony and ask you whether or not you would dispute its correctness. She is running a retail store and has told that she is buying Breakstone and Sheffield milk.

I pay 9¼ cents for Breakstone. I paid 9¼ cents for a while until I get my rebate. I get a rebate from Breakstone. Somebody from Sheffield comes and pays me every month. I just don't remember how much rebate I get because I don't get the same every day. Sometimes I get less or more. It comes out to 9 cents a quart. That is, I get three-quarters of a cent rebate. I have gotten a rebate about twice, a little after the first or the third or fourth day of after the first of the month.

Would you dispute her testimony?

Mr. VAN BOMEL. I don't know the particular customer of Breakstone, but I would say at that time prices were declining very rapidly and if she called up and said she wouldn't continue as a customer

unless she got it at a lower price, she probably would get a lower price, and if she put up enough of a kick at that time with prices declining as they were, she'd probably get a return to, retroactive reduction in price for perhaps several days or a week, whatever time she could bargain the man out of.

Mr. MONTGOMERY. I understood you to say there was an economy in handling this extra milk on the wagons because you could handle larger loads. Is that correct?

Mr. VAN BOMEL. It saves our cost from going up with smaller loads and we are decreasing in volume.

Mr. MONTGOMERY. I am interested in understanding how you put the Sheffield and Breakstone through the same plant. Do you have to have separate equipment for pasteurizing?

Mr. VAN BOMEL. No; it goes through the same pasteurizing plant.

Mr. MONTGOMERY. At the same time?

Mr. VAN BOMEL. No; there can only be one kind of milk run at a time through the same apparatus.

Mr. MONTGOMERY. How do you operate your schedule so you carry the full Sheffield load and then run through a separate load of Breakstone?

Mr. VAN BOMEL. The pasteurizing plant starts at 6 at night and the trucks run at 6 in the morning.

Mr. MONTGOMERY. So after you get through the Sheffield, then you operate the Breakstone?

Mr. VAN BOMEL. That is the usual practice.

Mr. MONTGOMERY. Do they both get out at the same time?

Mr. VAN BOMEL. They do.

Mr. MONTGOMERY. How do they both start running at the same time?

Mr. VAN BOMEL. They start pasteurizing at 6 at night, pack it up in the ice boxes at night, and when the trucks come along they load some cases of Breakstone and some of Sheffield.

Mr. MONTGOMERY. Wouldn't you have to change the whole operating schedule?

Mr. VAN BOMEL. No; because our operating schedule, because of having lost the volume of Sheffield, our volume of sales total today with Breakstone and Sheffield is not equal to our old Sheffield operation, and therefore doesn't take the number of hours to run.

Mr. MONTGOMERY. Where does Muller Dairies sell milk?

Mr. VAN BOMEL. Manhattan Island and Brooklyn and the Bronx.

Mr. MONTGOMERY. I understood you to say one reason you had to put in this competitive brand of Breakstone milk was because people were not paying the class 1 price and competitors were giving competition at the store.

Mr. VAN BOMEL. That is right.

Mr. MONTGOMERY. I want to read you a sentence from the report of the Federal Trade Commission on the New York milk market. I am reading from page 5 of that report.

During 1935 Muller Dairies, Inc., a subsidiary distributing fluid milk in New York metropolitan area, in order to purchase its fluid milk requirements at prices lower than the class 1 prices fixed by the New York State Division of Milk Control, leased three of its fluid milk-receiving plants in New York State to another subsidiary of National Dairy Products Corporation engaged in proc-

essing cream, condensed milk, and milk powder. About the same time Muller Dairies, Inc., sold a fourth plant to Dairymen's League Cooperative Association, Inc., and began purchasing milk at lower prices from the league for shipment from Pennsylvania to New York City for fluid distribution.

Are those statements of fact approximately correct, Mr. Van Bommel?

Mr. VAN BOMEL. Approximately correct; yes.

Mr. MONTGOMERY. Is the conclusion stated here correct that by doing this the Muller Dairies is able to buy milk below the class 1 price?

Mr. VAN BOMEL. Muller Dairies found themselves in a position, paying the State control board price, its competitors—not 40 as was the case in February when the Federal control went out but several hundred of them—were buying milk that was not living up to the control board. Muller Dairies sacrificed about 30 percent of its business and was losing money in the tens of thousands per month on the balance of business it was holding. They sought relief from the control officials on the basis that they were willing to pay what the competitor paid, but the control officials could not grant them that privilege.

They had no option but to get rid of the supply. The present commissioner of agriculture, whose home was near one of those plants and who had always been interested in those farmers, we appealed to him, told him the circumstances and he said, "Don't throw the farmers out of the market. Provide a market for them." So, instead of closing the plants they leased them to another company; that company put it into condensed milk.

Mr. MONTGOMERY. But they got a manufactured price, didn't they?

Mr. VAN BOMEL. It provided a market when they would not have had a place to deliver their milk, and in conference there the farmers agreed with it.

Mr. MONTGOMERY. This isn't in my department, but I would like you to check on this observation. If they had Federal regulation at the New York market—which you folks don't like—it wouldn't have been necessary or possible for Muller Dairies to throw those people onto the manufactured market, would it?

Mr. VAN BOMEL. If you had Federal regulation in that market that regulated all milk, it would not be possible and Muller Dairies would not have had to rid themselves of that plant. Federal regulation, however, so far—because, as Mr. McInnerney has explained to you—has failed. Part of the reason may be attributed to the fact that an artificially high class 1 price that could not be enforced was invoked and the Federal regulation has been violated and was violated as was testified here and as I know to my personal knowledge, by some forty-odd companies having paid the farmers some \$500,000 less than they should have for the milk in a period of less than 4 months.

Mr. MONTGOMERY. That brings me back to you, Mr. McInnerney. You have stated that some of the irresponsibles of smaller companies don't pay these classified prices. I don't know whether you have read the reports which the Federal Trade Commission has made to the Congress during 1936 and 1937, but there are frequent references in there with respect to St. Louis market, the Cincinnati market and the Boston market and the Philadelphia and the Connecticut market,

of what they refer to as the larger companies not paying the classified price which they agreed to pay to producers. Are you familiar with those reports, Mr. McInnerney?

Mr. McINNERNEY. No; I am not. I may have been at the time, but I have forgotten, but Mr. Hovey is here and can speak of the situation in Connecticut, but I can't tell you.

Mr. MONTGOMERY. I didn't want the testimony on the situation as a whole. I wanted to know about the specific instances reported in these reports. Are you familiar with those, Mr. Hovey?

Mr. HOVEY. I am familiar with the situation at least. I don't know what statement you are referring to. If you will read it I will be glad to tell you.

Mr. MONTGOMERY. They are very long because the Federal Trade Commission found many instances of not paying classified prices.

Mr. HOVEY. That was not true in the subsidiary of the National Dairy Products Corporation.

Mr. MONTGOMERY. You are stating that none of these companies referred to are subsidiaries of National Dairy?

Mr. HOVEY. I am saying that no subsidiary of National Dairy falsely classified any milk.

Mr. MONTGOMERY. I want the answer to this question very exact. Are any of the instances referred to in these reports instances that apply to subsidiaries of your company?

Mr. HOVEY. I am sorry; I am not familiar with your report. I cannot answer.

Mr. MONTGOMERY. So you are not able to say.

Mr. HOVEY. I am not able; but I do know there has been no dishonest classification of milk.

Mr. MONTGOMERY. Are you familiar with the situation cited here in the St. Louis market of one company that avoided paying the proper class price for products going into chocolate milk?

Mr. HOVEY. I wouldn't know.

Mr. MONTGOMERY. Is there anyone here familiar with the St. Louis market?

Mr. McINNERNEY. I understand, Mr. Montgomery, Mr. Stickler,¹ who is present—he is close to the picture—states that we have paid in every instance the price that was agreed to by the seller with us.

Mr. STICKLER. In every one of those cases you have mentioned, if at any time you refer to us, whatever our contract was with the farmers, we paid on that basis, and those bases were audited by the farmers, every one of them.

Mr. MONTGOMERY. I didn't get that testimony, please.

Mr. STICKLER. I say, in each and every one of those markets we paid according to the contract we had with the farmers. Now, when you mentioned chocolate milk, it was paid for on the basis that it was contracted for.

Mr. MONTGOMERY. Are you testifying to this situation in St. Louis?

Mr. STICKLER. I refer—you mentioned St. Louis, Cincinnati; I think you said Philadelphia.

Mr. MONTGOMERY. Yes.

Mr. STICKLER. You said Hartford.

Mr. MONTGOMERY. Mr. McInnerney, you state the general principle in your general statement you bring down here that your company—

¹ Mr. L. A. Stickler, Treasurer, National Dairy Products Corp., New York City.

it is only other companies that don't pay classified prices, yet here is a Government report naming—not naming larger companies—but stating that larger companies in these specific instances have not paid the classified price. You are not able to say of a certainty that your companies are not included in any of these instances named?

Mr. McINNERNEY. Well, I would qualify that, but I don't know, but I could find out or would attempt to find out.

Mr. MONTGOMERY. Mr. McInnerney, may I then give you the citation of the specific reports and ask you to advise the committee whether or not any one of these referred to as your company, would that be a fair question?

Mr. McINNERNEY. I would be very glad to tell you. I understand that we had contracts with farmers and we lived up to the contract.

Mr. MONTGOMERY. I am referring to pages 17 to 29 in the Federal Trade Commission's report on milk, and milk products, dated January 8, 1936, pages 123 to 141 of the Federal Trade Commission's report on milk, dated June 4, 1936, and to page 101 of the Federal Trade Commission's report, dated January 5, 1937.

Mr. HOVEY. Our use of milk in Hartford, Mr. Montgomery, is audited every month by the auditors for the producer organization.

Mr. MONTGOMERY. That is another question I wanted to ask you, Mr. McInnerney.

Mr. STICKLER. In most of those markets they were not buying on classified plans at that particular time.

Mr. MONTGOMERY. In each instance referred to in here the milk producers were buying on a classified basis and the books of the company were audited by employees of the Federal Trade Commission and the thing is given in great detail in these reports, in each instance showing many thousands of dollars.

Mr. STICKLER. That was not a classified plan; that I know definitely. We went into that at the time.

Mr. MONTGOMERY. I am very sorry at the time this report was made, St. Louis was buying on a classified basis. We don't need to dispute that.

Mr. STICKLER. I said Philadelphia.

Mr. MONTGOMERY. The record can speak for itself in there. We would like to have the information, whether any of the companies referred to are National Dairy Co. subsidiaries. I want to ask just a few questions about the charts. Can we see chart 3¹ again, please, sir? You stated the number of employees shown each year has been adjusted to allow for the increase in the number of companies under the National Dairy Products system during those years. Your caption on the chart doesn't say so, nor does anything in the text of the reports state that to be a fact. Should the caption therefore be amended?

Mr. BROMLEY. That caption should be amended, if it is necessary, Mr. Montgomery, but this is a comparable statistical presentation. We wouldn't want to put in anything that wasn't comparable and therefore we didn't mention it.

Mr. MONTGOMERY. No; I shouldn't think you would, but I think if the caption is incorrect it ought to be corrected for the record, because

¹ "Exhibit No. 458," appendix, p. 3262.

it certainly is not what it says it is, if it has been amended as you say. It says it is the annual average number of employees of the National Dairy Products Corporation and that is all it says. Let me call your attention to the fact that that is offered to show the stability of employment offered by your corporation. You will notice, if you can read the figures on the chart, that they fall from 36,565 in 1930 to 31,775 in 1933, which is a drop of approximately 13 percent in the annual average number of employees.

Now, another chart that you have filed showed that the fluid-milk consumption per capita dropped in the extreme during that period only 10 percent and the drop in total milk consumption during that period is something less than 10 percent. I simply wanted to point out on that chart as a showing of stability of employment that your employment fell off more than the fluid-milk consumption fell off. There may be various reasons for that.

Mr. BROMLEY. There certainly are, Mr. Montgomery.

Mr. MONTGOMERY. Now, may we have chart 6, please? ¹ Now, this chart shows the milk price index compared with all other farm prices. You have charts, do you not, which show the income of farmers for milk and from all other products?

Mr. BROMLEY. That is chart 4, I believe, Mr. Montgomery.

Mr. MONTGOMERY. You also have a chart following this one that shows volume of milk production and the production of all other products?

Mr. BROMLEY. That is correct.

Mr. MONTGOMERY. Now the other two charts that I just referred to are based on periods 1925, or 1924 to 1929. I notice that this one, chart 6, is based on the 1919-14 average.

Mr. BROMLEY. That is correct.

Mr. MONTGOMERY. May I ask why you used a different base for that chart?

Mr. BROMLEY. Government base on prices.

Mr. MONTGOMERY. You couldn't have figured base on the 1925-29 average?

Mr. BROMLEY. We could have.

Mr. MONTGOMERY. If you had done so can you tell us how the comparison between the farm prices for milk and the average of all other farm prices would have shown up during these years?

Mr. BROMLEY. I can't draw the picture at the moment, but whatever the comparison was, it would be more or less meaningless.

Mr. MONTGOMERY. It would be meaningless to use a 1925-29 basis for prices which you computed for the volume?

Mr. BROMLEY. I assume it would. The Department of Agriculture, to the best of my knowledge and belief, has gone into this thing very thoroughly and rightly or wrongly have taken 1909 to 1914 as a comparative period.

Mr. MONTGOMERY. You quite evidently are an expert in the Department of Agriculture's figures and you know, do you not, that they put out these various figures on different bases at different times?

Mr. BROMLEY. The prices that I have noted, the farm prices that I have noted, are generally on 1909-14.

¹ "Exhibit No. 462," appendix, p. 3265.

Mr. MONTGOMERY. This price you show here of the average farm prices for all other farm commodities is not reported by the Department of Agriculture, is it?

Mr. BROMLEY. For all others it is not.

Mr. MONTGOMERY. You computed that?

Mr. BROMLEY. I did.

Mr. MONTGOMERY. And then you are familiar, are you not, with what those prices averaged during the 1925-29 period?

Mr. BROMLEY. Which prices, Mr. Montgomery?

Mr. MONTGOMERY. Both the curves you have on the chart.

Mr. BROMLEY. Well, I could compute them. I don't have them. I didn't compute them; I could, surely.

Mr. MONTGOMERY. You know as a fact if you had put this chart on the 1925-29 base that in some of the years shown here the price of milk would have been lower than these other prices?

Mr. BROMLEY. I think that it would because the price of milk during the period, the farm price of milk during the period 1925-29 was substantially higher than the farm prices of many other commodities.

Mr. MONTGOMERY. Right, and if you had made the chart on that basis it wouldn't have made the argument that you have made from this chart, would it?

Mr. BROMLEY. Not to the degree, but the farm situation insofar as the dairy farmer was concerned was a most prosperous one throughout the twenties.

Mr. MONTGOMERY. And yet you used the 1925-29 base in computing the income of farmers which includes both the price and the volume of production, is that correct?

Mr. BROMLEY. Yes.

Mr. MONTGOMERY. Now will you turn to chart 8.¹ The statement that you make from that chart in your text, as I remember, is to point out that dairy-products consumption has increased at a rate that is exceeded only by vegetables?

Mr. BROMLEY. That is correct.

Mr. MONTGOMERY. Now from the source from which you got those figures for dairy products consumption, you also got figures, did you not, in the Department of Agriculture showing the consumption of fluid milk and cream?

Mr. BROMLEY. This Department of Agriculture release shows milk and cream and manufactured dairy products as a group.

Mr. MONTGOMERY. Shows them separately?

Mr. BROMLEY. Yes.

Mr. MONTGOMERY. Will you tell us what the percent increase for the period of this chart was in fluid milk and cream?

Mr. BROMLEY. There is some question about your last question to me. Would you please repeat it?

Mr. MONTGOMERY. As you stated, the Department, in the publication from which you have obtained these figures, also stated the consumption for fluid milk and cream separately and then for all manufactured dairy products, and the figure you have used is a total of the two?

Mr. BROMLEY. It is a total of the two, and I so explained it this morning, Mr. Montgomery.

¹ "Exhibit No. 464," appendix E, 3267.

Mr. MONTGOMERY. Now, will you tell us what percentage increase would have been shown had you listed this fluid milk and cream separately? Would you mind our saving time if I just read the figures? The fluid milk and cream runs from 315 pounds to 328; that is an increase of approximately 13 pounds or approximately 4 percent.

Mr. BROMLEY. No; 0.4 percent, is it not?

Mr. MONTGOMERY. No; it is 4 percent. In other words, fluid milk and cream belongs down here about near the bottom of the chart, below sugar and sirup; is that correct?

Mr. BROMLEY. On that basis it would be.

Mr. MONTGOMERY. And the manufactured products increased 22 percent during that period, did they not?

Mr. BROMLEY. That is correct.

Mr. MONTGOMERY. Now we turn to chart 9,¹ please, sir.

The CHAIRMAN. Mr. Montgomery, may I ask whether that distinction which you have just drawn means that consumers have turned from milk to evaporated milk, for example?

Mr. MONTGOMERY. It does mean that, in part, Mr. Chairman, and I think it means that the consumption of things like butter and evaporated milk, which are priced competitively, has been holding up much better than the consumption of fluid milk.

Mr. BROMLEY. For the record, I would say there was no upward trend in the per capita consumption of butter.

Mr. MONTGOMERY. I said "had been holding up much better." Now on chart 9 you compare the retail prices of all foods with the retail prices of dairy products, all combined, and in the caption to that chart you say dairy product retail prices have been consistently lower than the average prices of food as a whole each year since 1935. From the same sources from which you got those figures there was available also, was there not, the average price of retail milk?

Mr. BROMLEY. Yes, sir; there is a figure of that character.

Mr. MONTGOMERY. If you had shown the average price of retail milk on that chart, would it not have been higher than the average price of all foods?

Mr. BROMLEY. It would have been.

Mr. MONTGOMERY. As a matter of fact, would it not have been higher than the average for the whole cost of living, including rent and all these other things in every year shown except the years 1932 and 1933?

Mr. BROMLEY. I can't say, Mr. Montgomery. If you have computed it, I assume that it would.

Mr. MONTGOMERY. Wouldn't it as a matter of fact have been very much higher in these later years than any of the other curves you have on the chart?

Mr. BROMLEY. I think that it would for reasons Mr. McInnerney advanced this morning in great detail.

Mr. MONTGOMERY. So that this average dairy products price keeps down where it is by combining fluid milk prices with butter and evaporated milk, which, of course, went to very low levels?

¹ "Exhibit No. 465," appendix, p. 3268.

Mr. BROMLEY. Of course, understand that the main reason for the high price of bottled milk is due to the artificially high class 1 prices that have prevailed for some time.

Mr. MONTGOMERY. We have heard that, plus the store differentials, and so on.

Mr. SIMPSON. You have used the cost of living, which includes certain fixed items like rent, which don't shift very much. The fairer comparison is between all foods, dairy products, and fluid milk; and had you used fluid milk, you would have seen, as Mr. Montgomery said, in every year the fluid-milk price on a 1923-25 base has been 10, 15, 20 percent above the retail price of all foods?

Mr. BROMLEY. Because of the high class 1 price paid to the farmers for milk and an increasing wage rate; yes.

Mr. SIMPSON. It has an effect on other food prices, too, elements of that kind?

Mr. McINNERNEY. The price of rents hasn't gone down.

Mr. SIMPSON. I say they remain more fixed, and therefore it helps your chart?

Mr. MONTGOMERY. May we have chart 25, please? These figures showing how many quarts of milk can be bought with an hour's wages in different countries were obtained from what source?

Mr. BROMLEY. The National Association of Manufacturers.

Mr. MONTGOMERY. Are you familiar with the way in which they computed average wages in these different countries?

Mr. BROMLEY. I can't quote verbatim, doctor.

Mr. MONTGOMERY. You are the doctor. I am not a doctor. I am just a mister.

Mr. BROMLEY. I am sorry, Mr. Montgomery. I do know that they included the factory wage rates and drivers, deliverymen's wages, some clerical wages, all told, about 8 or 10 different general wage classifications.

Mr. MONTGOMERY. How do you know that?

Mr. BROMLEY. Because that was provided in the material which the association put out.

Mr. MONTGOMERY. Do you know anything about how many workmen are covered, what proportion of the workmen, by the United States figures that were used by those in Sweden, France, and Germany, and so on?

Mr. BROMLEY. I do not know; no.

Mr. MONTGOMERY. You, of your personal knowledge, then, haven't any knowledge as to how accurate this comparison is, have you?

Mr. BROMLEY. No; but my personal knowledge is such that the facts shown here, anyone would know would be true. Not only for milk but for refrigerators, automobiles, and everything else.

Mr. MONTGOMERY. And, yes, most everything else. Here I show you a page from that same report. This is a question that only you and I can discuss because we are experts, and that shows a similar table for all foods. I don't want to get into details, but I want to show you—the committee doesn't like details—whether the showing made there doesn't indicate that the United States fares much better compared with other countries in the prices of all foods than it does in the price of milk?

Mr. BROMLEY. Yes; it does.

Mr. MONTGOMERY. Very much better, is it not?

Mr. BROMLEY. Yes.

Mr. MONTGOMERY. So this given by itself with respect to the price of milk leads one to think that we are better off in milk than perhaps we are. Isn't that so?

Mr. BROMLEY. I wouldn't say that that is necessarily so, Mr. Montgomery.

Mr. MONTGOMERY. Let me put it this way: That the advantage of the American workingman with respect to the price of all foods, is much greater than it is with respect to the price of milk.

Mr. BROMLEY. On the basis of those figures, it is; yes.

Mr. MONTGOMERY. Aren't these the figures that you are offering? With respect to chart 16 ("Exhibit No. 472") the subcaption of that says, "The total population of these markets is 24,000,000." Is that a fixed number of markets all the way through for each year from 1930 to 1935 inclusive?

Mr. BROMLEY. The markets are identical.

Mr. MONTGOMERY. These, then, do not include all the markets in which you operate?

Mr. BROMLEY. All markets where we have fluid milk operations.

Mr. MONTGOMERY. And there was no change in the number of markets in which you had fluid milk operations during those 6 years?

Mr. BROMLEY. No, sir.

Mr. MONTGOMERY. Didn't you buy any fluid milk companies in new markets in any of those years?

Mr. BROMLEY. Well, we may have done that, but the point is that this is a large sample, an accurate sample of all of our markets where we have fluid-milk companies that none of the markets included in this year are excluded from this year. It is identical all the way through.

Mr. MONTGOMERY. Then, as a matter of fact, it doesn't show the total number of markets in any particular case in which you were operating, does it?

Mr. BROMLEY. Not at all; no.

SALARIES OF EXECUTIVES OF NATIONAL DAIRY PRODUCTS CORPORATION

Mr. MONTGOMERY. In "Exhibit No. 458"—it isn't necessary to turn back to it—you show National Dairy Products Corporation wage and employment record. I notice that the line shown there is National Dairy Products Corporation, excluding executive salaries. Can you tell us what increases there have been in salaries of executives? Perhaps you would prefer to answer that, Mr. McInnerney.

Mr. McINNERNEY. I would say that the National Dairy executives' salaries are less today than they were at the time of the acquisition of the properties. That is, the executives' pay roll has been constantly decreasing. Do you want us to figure that out?

Mr. MONTGOMERY. I would just like to make my question a little more precise. The Federal Trade Commission reported in 1937 that 48 of your officers received salaries of \$15,000 a year or more, topped by your own at \$108,000. Have any of those salaries of individuals listed there received increased salaries since 1935?

Mr. McINNERNEY. Yes. At the start of the depression most of our executives took a reduction. I thought we would have to take a reduction of 25 percent. I personally took a reduction of 40 percent in my salary at that time.

Mr. MONTGOMERY. Is this the reduced figure that I cited here, the \$108,000?

Mr. McINNERNEY. That is reduced as far as I am concerned; yes, sir. General conditions improved, and some of our men felt that part of their salary ought to be reinstated, and it was done.

Mr. MONTGOMERY. Would you tell the committee what the increase has been?

Mr. McINNERNEY. You mean individuals, or just mine?

Mr. MONTGOMERY. I think yours would be the most interesting.

Mr. McINNERNEY. My salary—I had better go back on the salary, whatever it is—isn't enough. [Laughter.] But I will go back to the original basis. When National Dairy was put together I drew a salary as president of Hydrox, and as a matter of fact I did not expect to be president of National Dairy. I had another ax to grind which didn't fit in with the ideas of those.

Mr. MONTGOMERY. Kind of forced upon you, was it?

Mr. McINNERNEY. Well, I will say this, that when the company was projected, I was offered or it was suggested that the salary be \$70,000, which I refused. I didn't take any salary from National Dairy and for 5 years I was president of National Dairy without any salary, paying my own expenses and everything else. At the expiration of 5 years, somebody said something about they didn't know how I could live without any salary. It was intimated it wasn't a good example for the rest of the organization to have the president get no salary and other men who didn't have any to shoot at—and the board of directors voted me a salary of \$180,000.

Mr. MONTGOMERY. One hundred eighty?

Mr. McINNERNEY. Yes. I refused to take it, not that I thought it was too much but I was a little modest about it.

I hadn't wanted to go into New York as a salaried man, for some reason. At any rate I drew that salary for a little while and then when conditions seemed to get steadily and steadily worse, I suggested to those who were drawing salaries, Mr. Van Bomet and others, that they reduce their salaries and I reduced mine 40 percent, and that established the \$108,000. That continued up until last year.

Mr. VAN BOMEL. The end of last year.

Mr. McINNERNEY. When the board increased my salary from \$108,000 to \$150,000.

Mr. BALLINGER. Mr. McInnerney, didn't you testify this morning that the National Dairy Products had steadily lost ground in the total amount of milk control in the milk business, and they lost ground; you say the percentage of 5 percent had been steadily reduced?

Mr. McINNERNEY. You are talking about fluid milk?

Mr. BALLINGER. Or all milk.

Mr. McINNERNEY. Yes. The fluid milk business is relatively not our most important business at the present time. The fluid milk business, I think, in 1937 and 1938, showed it to be around \$132,000,000, on which we made one and a fraction percent as against a much

higher base, but the low peaks of our earnings were constantly showing a better position.

It is rather embarrassing for me to talk about my salary because I think it isn't enough. I am not going to ask for more, but I am running a \$350,000,000 business and 35,000 employees; in comparison with some of the statements I saw I think I have been underpaid.

The CHAIRMAN. Have you finished your questions?

Mr. O'CONNELL. I have none.

The CHAIRMAN. Do any other members of the committee desire to prolong this inquiry?

Mr. McInnerney, let me on behalf of the committee express our appreciation for your great patience. I think we have put you through quite a lengthy ordeal. And to all the others also I wish to express our appreciation. You appeared here, of course, voluntarily, and I don't want to adjourn the meeting without asking you whether there is any further statement that you would care to make.

Mr. McINNERNEY. I would like to make one statement, Mr. Chairman. I have appeared before a good many committees in the past 10 years; it seems to be part of my job. I want to say that I have never appeared before any committee that has given so much cooperation on the part of yourself and the other members of the committee. I want to express my appreciation and the appreciation of the others here for the very fair way we have been treated.

I thank you very much.

The CHAIRMAN. It is very kind of you to say so. The committee will stand in recess subject to the call of the Chair.

(Whereupon, at 6:40 p. m. the Committee adjourned subject to call of the Chair.)

(A rebuttal by the staff of the Federal Trade Commission to the testimony of witnesses from National Dairy Products Corp. and The Borden Company and an affidavit by Duncan McCrea, Prosecuting Attorney for Wayne County, Michigan, as to conditions in the milk industry in the Detroit area are included in the appendix as "Exhibit No. 370-A," pp. 3194-3232 in connection with "Exhibit No. 370": "Report of Federal Trade Commission on Concentration of Control Over Sales and Distribution of Milk and Dairy Products Under Public Resolution No. 113, 75th Congress," appendix, p. 3135.)

APPENDIX

EXHIBIT No. 359

[Submitted by Federal Trade Commission]

PROPORTION OF TOTAL FLUID MILK DISTRIBUTION CONTROLLED IN CERTAIN CITIES BY NATIONAL DAIRY PRODUCTS CORP. AND THE BORDEN CO. 1937

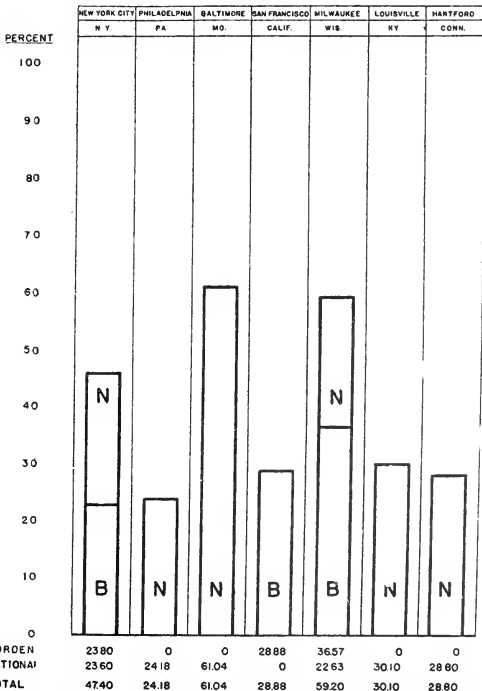
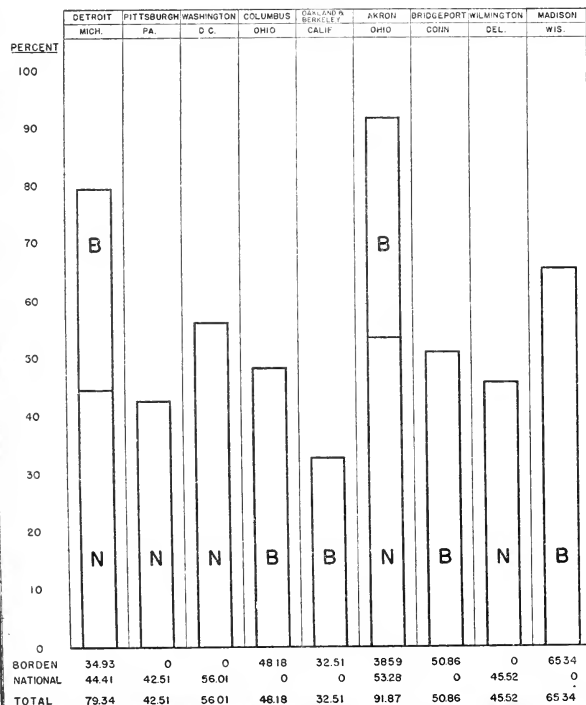


EXHIBIT No. 360

[Submitted by Federal Trade Commission]

PROPORTION OF TOTAL FLUID MILK DISTRIBUTION
CONTROLLED IN CERTAIN CITIES
BY
NATIONAL DAIRY PRODUCTS CORP.
AND
THE BORDEN CO.
1930



"EXHIBIT No. 361", introduced on p. 2765, is on file with the Committee

EXHIBIT No. 362

WHAT DOES A QUART OF MILK COST, AND WHAT DOES THE FARMER GET FROM IT?

A study by the Federal Trade Commission as of October 1938, showed the following cost of a quart of milk in twelve cities, with the price paid the farmer and

the distributor's spread in cents between what the consumer paid and what the farmer received:

| | Prices Paid Farmer f. o. b. City Plant for Class 1 milk (quart) | Prices Charged Consumer, Del'd in Bottles (quart) | Spread to Distributor (quart) |
|-----------------------|---|--|-------------------------------------|
| | Cents | Cents | Cents |
| Boston..... | 6.88 | 13.00 | 6.12 |
| Philadelphia..... | 5.98 | 12.00 | 6.02 |
| Baltimore..... | 6.13 | 13.00 | 6.87 |
| Washington, D. C..... | 6.77 | 14.00 | 7.23 |
| Pittsburgh..... | 6.15 | 13.00 | 6.85 |
| Detroit..... | 4.09 | 10.50 | 6.41 |
| Milwaukee..... | 5.83 | 12.00 | 6.17 |
| Louisville..... | ¹ 5.81 | 13.00 | 7.19 |
| Kansas City..... | 4.97 | 13.00 | 8.03 |
| Dallas..... | 4.25 | 11.00 | 6.75 |
| Los Angeles..... | ¹ 4.36 | 11.00 | 6.64 |
| San Francisco..... | 5.45 | 13.00 | 7.55 |
| Average..... | 5.56 | 12.38 | 6.82 |

¹ (Apr.).¹ (Sept.).

From the above, it appears that the average price paid the farmers for Class 1 milk in these twelve cities was 5.56¢ a quart; that the average price charged the consumer was 12.38¢ a quart; and that the average distributors' spread was 6.82¢ a quart.

In other words, that the distributor received 1.26 cents more a quart than did the farmer, while the consumers paid considerably more than twice the price received by the farmer.

Even this, however, as stated above, does not tell the whole story. The farmer is paid an f. o. b. price at the plant. There is a deduction from his price for haulage, terminals, and other charges.

A similar study of forty cities in 1934 showed a wide range of prices paid the farmer. It showed:

In 17 cities, between 3¢ and 4¢ a quart.

In 12 cities, between 4¢ and 5¢ a quart.

In 3 cities, between 5¢ and 6¢ a quart.

In 8 cities, between 6¢ and 7¢ a quart.

The retail price in these forty cities for house delivery ranged from 9¢ to 13¢ a quart.

EXHIBIT No. 363

[Submitted by Federal Trade Commission]

COST OF QUART OF MILK READY FOR DELIVERY BY STORE OR WAGON UNDER FREE COMPETITIVE CONDITIONS BASED ON ACCOUNTANTS' COST STUDY OF FACTORS IN A QUART OF MILK

I

Cost of raw milk to farmer, 4¢, 5¢, or 6¢ a quart.

II

Plant pasteurizing and bottling costs, New York Survey = \$.0079¢.; Accountants' Study, A. A. A., from ½ cent to 1 cent a quart.

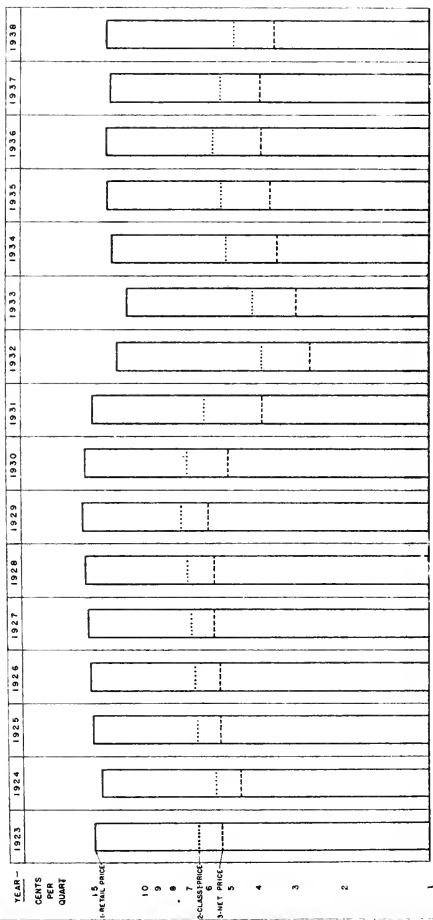
III

| | Cents | Cents | Cents |
|---|-------|-------|-------|
| Wholesale cost of a quart of pasteurized milk at plant, ready for delivery: | | | |
| Farmers' Prices..... | 4.00 | 5.00 | 6.00 |
| Plant cost, New York Study..... | .79 | .79 | .79 |
| Total..... | 4.79 | 5.79 | 6.79 |

EXHIBIT No. 364

[Submitted by Federal Trade Commission]

PRICE OF FRESH MILK IN NEW YORK ON QUART BASIS

PRICE CONSUMER PAYS ¹PRICE FARMER IS ENCOURAGED TO BELIEVE HE WILL GET ²PRICE FARMER ACTUALLY RECEIVES ³

Price of fresh milk in New York City on quart basis

| | Price farmer actually received (net) | Class I Price | Retail Price | | Price farmer actually received (net) | Class I Price | Retail Price |
|-----------|--|------------------|-----------------|-----------|--|------------------|-----------------|
| 1921..... | \$0. 0522 | \$0. 0641 | \$0. 151 | 1930..... | \$0. 0506 | \$0. 0666 | \$0. 157 |
| 1922..... | . 0472 | . 0612 | . 146 | 1931..... | . 0378 | . 0599 | . 147 |
| 1923..... | . 0533 | . 0637 | . 148 | 1932..... | . 0259 | . 0383 | . 120 |
| 1924..... | . 0458 | . 0555 | . 139 | 1933..... | . 0293 | . 0409 | . 111 |
| 1925..... | . 0529 | . 0640 | . 148 | 1934..... | . 0341 | . 0505 | . 126 |
| 1926..... | . 0535 | . 0650 | . 150 | 1935..... | . 0355 | . 0527 | . 130 |
| 1927..... | . 0563 | . 0672 | . 153 | 1936..... | . 0381 | . 0560 | . 131 |
| 1928..... | . 0563 | . 0690 | . 156 | 1937..... | . 0383 | . 0529 | . 126 |
| 1929..... | . 0586 | . 0728 | . 160 | 1938..... | . 0346 | . 0477 | . 131 |

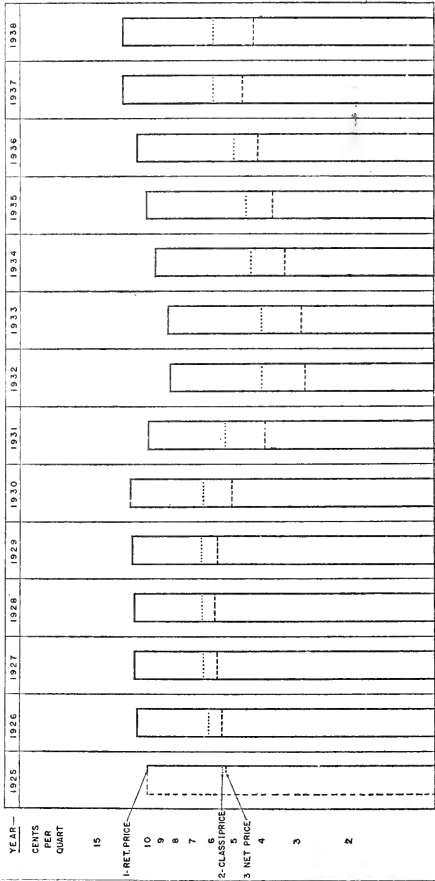
EXHIBIT No. 365
[Submitted by Federal Trade Commission]

PRICE OF FRESH MILK IN MILWAUKEE ON QUART BASIS

PRICE CONSUMER PAYS

PRICE FARMER IS LED TO BELIEVE HE WILL GET ²

PRICE FARMER ACTUALLY RECEIVES ³



Price of fresh milk in Milwaukee on quart basis

| | Price farmer actually receives (net) | Class I price | Retail price | | Price farmer actually receives (net) | Class I price | Retail price |
|-----------|--|------------------|-----------------|-----------|--|------------------|-----------------|
| 1925..... | \$0.0531 | \$0.0544 | \$0.100 | 1932..... | \$0.0283 | \$0.0397 | \$0.083 |
| 1926..... | .0549 | .0606 | .108 | 1933..... | .0290 | .0397 | .084 |
| 1927..... | .0570 | .0627 | .110 | 1934..... | .0311 | .0432 | .093 |
| 1928..... | .0580 | .0639 | .110 | 1935..... | .0365 | .0448 | .100 |
| 1929..... | .0566 | .0641 | .112 | 1936..... | .0411 | .0497 | .108 |
| 1930..... | .0504 | .0635 | .114 | 1937..... | .0463 | .0583 | .120 |
| 1931..... | .0390 | .0533 | .099 | 1938..... | .0425 | .0563 | .120 |

EXHIBIT No. 366

[Submitted by Federal Trade Commission]

Farm price decline, Milwaukee milk survey—1934-36

[In cents per quart]

| Year | Price paid farmer for class 1 milk | Class 1 milk, collapse from 1923 price to 1933 and 1934 price | Price paid farmer for class 2 milk | Class 2 milk, collapse from 1923 price to 1933 and 1934 price |
|-----------|--|---|--|---|
| 1923..... | 6.2 | ----- | 4.4 | ----- |
| 1933..... | 4.0 | 2.2 | 1.93 | 2.47 |
| 1934..... | 4.4 | 1.8 | 2.15 | 2.25 |

| | Loss to farmer— | |
|---|--|--|
| | Assuming 166,100,000 lbs. class 1 milk | Assuming 159,000,000 lbs. class 2 milk |
| Loss from 1923 price to 1933 price..... | \$1,661,000 | \$1,812,600 |
| Loss from 1923 price to 1934 price..... | 1,345,410 | 1,653,600 |

Total losses on reduced price, Class 1 and Class 2 milk:

In 1933..... \$3,473,600

In 1934..... 2,999,010

NOTE.—Above figures do not include cream losses.

EXHIBIT No. 367

[Submitted by Federal Trade Commission]

Nation-wide collapse of dairy farmers' income—In percentages of consumers' dollar

| Year | Farmer's share | Distributor's share | Year | Farmer's share | Distributor's share |
|-------------------|-------------------|------------------------|-----------|-------------------|------------------------|
| | <i>Cents</i> | <i>Cents</i> | | <i>Cents</i> | <i>Cents</i> |
| 1923..... | 52 | 48 | 1931..... | 40 | 60 |
| 1924 to 1929..... | 48, 49 | 51, 52 | 1932..... | 34 | 66 |
| 1930..... | 44 | 56 | 1933..... | 35 | 65 |

EXHIBIT No. 368

[Report of F. T. C. Agricultural Income Inquiry, 1937]

Summary of investments, profits, and rates of return for milk processors and distributors, 1929-35

| | On total investment as reported | On investment in the business | | On stockholders investment as revised ¹ |
|--|---------------------------------|-------------------------------|-------------------------|--|
| | | As reported | As revised ¹ | |
| Average Investment ² (year): | | | | |
| 1929..... | \$357,494,820 | \$339,102,113 | \$337,619,379 | \$293,885,005 |
| 1930..... | 448,556,445 | 417,204,355 | 415,744,791 | 364,297,760 |
| 1931..... | 483,904,068 | 446,499,220 | 445,068,920 | 332,938,306 |
| 1932..... | 470,157,023 | 435,606,672 | 434,202,796 | 370,808,727 |
| 1933..... | 443,673,661 | 407,897,222 | 407,121,375 | 348,199,108 |
| 1934..... | 422,473,322 | 377,543,845 | 377,396,025 | 230,889,150 |
| 6-year annual average for 10 identical companies, 1929-34 ³ | 437,707,390 | 403,975,571 | 402,858,881 | 348,503,009 |
| 1935 ⁴ | 347,322,284 | 308,521,373 | 308,521,374 | 261,223,740 |
| 7-year annual average for all companies, 1929-35..... | 424,795,230 | 390,339,257 | 389,362,094 | 336,034,542 |
| Profits: | | | | |
| 1929..... | 54,315,221 | 53,101,987 | 53,101,987 | 50,882,906 |
| 1930..... | 61,298,014 | 59,055,844 | 59,055,844 | 56,572,371 |
| 1931..... | 56,563,968 | 54,879,877 | 54,879,877 | 51,520,273 |
| 1932..... | 29,038,741 | 27,606,583 | 27,606,583 | 24,319,764 |
| 1933..... | 19,231,558 | 17,901,889 | 17,901,889 | 14,766,228 |
| 1934..... | 20,460,210 | 19,421,536 | 19,421,536 | 16,250,125 |
| 6-year annual average for 10 identical companies, 1929-34 ³ | 40,151,290 | 38,661,286 | 38,661,286 | 35,718,594 |
| 1935 ⁴ | 21,893,886 | 21,082,121 | 21,082,121 | 18,289,484 |
| 7-year annual average for all companies, 1929-35..... | 37,543,090 | 36,149,977 | 36,149,977 | 33,228,722 |
| Rates of return: | <i>Percent</i> | <i>Percent</i> | <i>Percent</i> | <i>Percent</i> |
| 1929..... | 15.19 | 15.66 | 15.73 | 17.21 |
| 1930..... | 13.67 | 14.16 | 14.20 | 15.53 |
| 1931..... | 11.69 | 12.29 | 12.33 | 13.45 |
| 1932..... | 6.18 | 6.34 | 6.36 | 6.56 |
| 1933..... | 4.33 | 4.39 | 4.40 | 4.24 |
| 1934..... | 4.84 | 5.14 | 5.15 | 4.91 |
| 6-year annual average for 10 identical companies, 1929-34 ³ | 9.17 | 9.57 | 9.60 | 10.25 |
| 1935 ⁴ | 6.30 | 6.83 | 6.83 | 7.00 |
| 7-year annual average for all companies, 1929-35..... | 8.84 | 9.26 | 9.28 | 9.59 |

¹ Revised by the Commission to exclude appreciation.² Beginning and end of year.³ The following companies are included in this tabulation: National Dairy Products Corporation; the Borden Co.; Golden States Co., Ltd.; Beatrice Creamery Co.; Carnation Co.; Pet Milk Co.; Creameries of America, Inc.; the Fairmont Creamery Co.; North American Creameries, Inc.; Western Dairies, Inc.⁴ 5 companies only.

EXHIBIT No. 369

STATEMENT OF DR. FREDERIC HOWE BEFORE TEMPORARY NATIONAL ECONOMIC COMMITTEE, MARCH 10, 1939

If our purpose is to reestablish a free competitive system, one may ask whether competition in the fluid milk industry would not automatically result if:

1. Milk flowed freely through the pasteurization plant at a custom or tolling charge determined by cost, and was available to all buyers within the town or city at a price fixed by 4¢, 5¢, or 6¢ a quart flat to the farmer, plus a charge of ½¢ to 1¢ a quart for pasteurization, a charge being made for bottle uses, bottles being returnable by the buyer.

Under such free conditions the following would happen:

1. Milk would be available to stores, dairy shops, independent truckmen, and all other dealers at a wholesale cost determined by cost of production. Milk would be like other commodities in this respect.

2. The farmer or the farmer's cooperative could re-enter the milk industry which he lost through the coming of the trust. He would again be his own salesman, and he would enjoy an income which he once enjoyed as distributor.

3. Hospitals, institutions, schools and charitable institutions could buy at a cost which would permit of the wider use of milk.

4. The price of milk would fall to its proper production and plant cost. Increased consumption would follow. More milk would go into bottles and the farmer's price would rise accordingly. We might begin to approach a proper consumption of milk in this country.

5. There would be an end of abuses and dishonesties incident to the present system, such abuses as issue out of the method of payment and charges for transportation, etc.

6. New methods of distribution would arise. We would have dairy shops springing up as they sprang up in Chicago. Milk would find many new outlets and many new methods of distribution now denied milk by the insistence that all milk shall be delivered by wagons.

7. Milk might become a popular drink at a very low cost. It might compete with soft drinks. There is no reason why fluid milk could not be handled, and its consumption increased, just as is the consumption of Coca Cola, which is brought to us in a great variety of ways.

8. Under such conditions we would have skim milk and buttermilk available at a very low cost. Skim milk contains all of the ingredients of whole milk except butterfat. And it is these ingredients that are necessary to strong bones and sound teeth. Today skim milk and buttermilk are difficult to buy.

EXHIBIT No. 370

REPORT OF FEDERAL TRADE COMMISSION ON CONCENTRATION OF CONTROL OVER SALES AND DISTRIBUTION OF MILK AND DAIRY PRODUCTS UNDER PUBLIC RESOLUTION NO. 113, 75TH CONGRESS¹

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CONCENTRATION OF CONTROL OVER SALE AND DISTRIBUTION OF MILK AND DAIRY PRODUCTS

Pursuant to its duties under Public Resolution No. 113, 75th Congress, the Federal Trade Commission has caused a limited investigation, restricted by lack of funds, personnel and time, to be made for the purpose of bringing up to date certain information contained in reports previously published by the Commission with respect to concentration of control over the sale and distribution of milk and dairy products.

SUMMARY

Briefly stated, the recent limited investigation developed the following outstanding facts:

1. Two large organizations (National Dairy Products Corporation and The Borden Company), engaged in Nation-wide distribution of milk and dairy products, have been built up through acquisitions of established business concerns. These two distributors approach closely to monopoly in some of the large milk markets in the United States. Details of their organization and operation prior to 1936 were discussed in the Federal Trade Commission's report on sale and distribution of milk products in the New York sales area (House Document No. 95, 75th Congress, first session).

2. The Borden Company refused to furnish information as to its operations subsequent to 1935 on the grounds that it and some of its officers and employees were under indictment in the District Court of the United States for the Northern District of Illinois, Eastern Division, for alleged violations of the anti-trust laws.

3. National Dairy Products Corporation, organized in 1923 as a holding company, has acquired since that date either the capital stock or assets in whole or in part of more than 360 going concerns engaged in various branches of milk and milk products industries. The acquisitions were financed largely by issuing

capital stock of the holding company for capital stock or assets of the acquired companies. After many reorganizations and consolidations of acquired companies and properties, National Dairy Products Corporation on November 15, 1938, owned or controlled 96 operating subsidiaries, 77 of which were engaged in buying, processing, manufacturing, selling and distributing milk and various milk products within the United States.

4. Subsidiaries of National Dairy Products Corporation

- (1) Processed, manufactured, handled and/or sold the products (including fluid milk) of 9,354,296,000 pounds or more than 9% of the total milk (103,132,000,000 pounds) produced on farms on the United States during 1937.
- (2) Processed, manufactured, handled and/or sold and distributed the products of 8.48% of the total estimated milk consumed in fluid form (except that used on farms); 6.86% of the milk used to produce creamery butter; 23.72% of the total milk used in the manufacture of ice cream; and 38.91% of all the milk used in the manufacture of cheese in the United States during 1936.
- (3) Manufactured, sold and/or distributed 6.29% of all the creamery butter, 16.90% of the ice cream and 44.84% of the cheese manufactured and sold in the United States during 1937.
- (4) In addition to its vast cheese business Kraft-Phenix Cheese Corporation, one of the largest subsidiaries of National Dairy Products Corporation, has a three-year contract (dated May 7, 1937) to process and package for Armour & Company "its entire requirements of pasteurized cheese during the three year period" at fixed service charges according to grade and size of package. The quantities of cheese processed and packaged for Armour & Company, and the amounts received for this service, by Kraft-Phenix Cheese Corporation under that contract were reported as follows:

| | | |
|---------------------|-----------|----------------|
| 1937 (June to Dec.) | -----lbs. | 10, 929, 897 |
| | | \$370, 848. 27 |
| 1938 | -----lbs. | 20, 615, 630 |
| | | \$690, 395. 10 |

- (5) As typical examples of the extent of its gigantic operations, subsidiaries of National Dairy Products Corporation during 1937 handled and distributed the following percentages of estimated quantities of fluid milk sold for consumption in the markets for which such information is available:

| | Percent | | Percent |
|-------------------|---------|------------------|---------|
| Baltimore, Md. | 61. 04 | Youngstown, Ohio | 22. 90 |
| Hartford, Conn. | 28. 80 | Milwaukee, Wisc. | 22. 63 |
| Philadelphia, Pa. | 24. 18 | Louisville, Ky. | 30. 10 |
| New York City | 23. 6 | | |

5. The operating subsidiaries of National Dairy Products Corporation made profits and paid dividends to the holding company throughout the period of the depression and paid the following aggregate amounts of dividends during recent years: (complete information for other years not available)

| | | |
|------|-------|--------------------|
| 1935 | ----- | \$18, 912, 403. 65 |
| 1936 | ----- | 13, 841, 638. 00 |
| 1937 | ----- | 8, 690, 211. 62 |

6. The sale and distribution of fluid milk is in the hands of only a few dealers in each of the following markets:

- (1) In Boston, Mass., four dealers distributed 62.7 per cent of the fluid milk sold. Neither National Dairy Products Corporation, nor The Borden Company own directly any of the four large companies, but the former controls the Whiting Milk Co., the second largest distributor in Boston, through voting trust agreement with option to purchase the business.
- (2) In Hartford, Conn., two companies (both indirectly owned by National Dairy Products Corporation) distributed 28.8 per cent of the total fluid milk during 1937.
- (3) In New York City six dealers (two of them subsidiaries of The Borden Company and two others subsidiaries of National Dairy Products Corporation) distributed 57.3 per cent of the total fluid milk during the first three months of 1938. The two National Dairy subsidiaries distributed 24.1 per cent while the two Borden subsidiaries distributed 25.7 per cent.

- (4) In Philadelphia, Pa., five dealers, the largest of which (Supplee-Wills-Jones Milk Company) is a subsidiary of National Dairy Products Corporation, distributed 70.27 per cent of the total 1937 fluid milk sales.
- (5) In Baltimore, Md., due to conditions in the market, accurate information was not obtained as to the exact proportion of fluid milk distributed in 1937, by the individual dealers. However, the five largest dealers distributed 91.5 per cent of the milk handled by Maryland Cooperative Milk Producers, Inc., which in turn sold to distributors approximately 90 per cent of all the milk consumed in this market. Fairfield Western Maryland Dairy Company, a subsidiary of National Dairy Products Corporation, distributed more than 61 per cent of the total estimated fluid milk consumed in Baltimore during 1937.
- (6) In Youngstown, Ohio, five dealers distributed 57.0 per cent of the 1937 fluid milk sales. The second largest dealer (Youngstown Sanitary Milk Company) is a subsidiary of National Dairy Products Corporation, and distributed 22.9 per cent of the total.
- (7) In Milwaukee, Wisconsin, five dealers (the largest of which—Gridley Dairy Company—is a subsidiary of The Borden Company and the second largest—Luick Dairy Company—is a subsidiary of National Dairy Products Corporation) distributed 84.58 per cent of the total milk sold in 1937. The Borden subsidiary handled 36.57 per cent while the National Dairy subsidiary handled 22.63 per cent of the total.
- (8) In Louisville, Ky., five dealers distributed 57.6 per cent of the total 1937 fluid milk sales. The largest of the five (Ewing-Von Allman Dairy Company) is a subsidiary of National Dairy Products Corporation and handled 30.1 per cent of the total.

7. Conditions in the Baltimore, Md., market where field investigation was made, reflect the results of concentration of control in the hands of a few units. The outstanding conditions and practices include the following:

- (1) Maryland Cooperative Milk Producers, Inc., a farmers' cooperative marketing association representing approximately 3,100 dairy farmers supplying approximately 90 per cent of the milk requirements of Baltimore City, has succeeded in maintaining a closed market for its members and obtaining a comparatively good price for their class 1 and class 2 milk.
- (2) Fairfield-Western Maryland Dairy Company (formerly Western Maryland Dairy Company)—a wholly owned subsidiary of National Dairy Products Corporation since September 25, 1930—handled 66 per cent of the milk of all classes sold by Maryland Cooperative Milk Producers, Inc., and 61 per cent of the estimated fluid milk consumption in Baltimore during 1937 and works closely with the farmers' cooperative association in maintaining its position in the market.
- (3) Western Maryland Dairy Company (now Fairfield-Western Maryland Dairy Company) during 1927 assisted Isaac W. Heaps, manager of Maryland Cooperative Milk Producers, Inc., to obtain an increase in salary of from about \$7,500 a year to \$20,000 a year, from the cooperative association by entering into a contract employing Mr. Heaps, and later requiring the cooperative association to agree to increase Mr. Heaps' salary in consideration of his release from the contract.
- (4) On November 16, 1936, Fairfield-Western Maryland Dairy Company led other dealers in increasing the retail price of fluid milk from 12 cents per quart to 13 cents per quart which more than offset an increase in prices paid farmers for milk effective on the same date.
- (5) Fairfield-Western Maryland Dairy Company and other Baltimore dealers acting in concert assisted Maryland Cooperative Milk Producers, Inc., in inducing dairy farmers to sign a new and more rigid marketing contract with the cooperative.
- (6) Fairfield-Western Maryland Dairy Company assisted Maryland Cooperative Milk Producers, Inc., in keeping independent producers (farmers not selling through the cooperative association) out of the Baltimore market. Inquiries from dairy farmers to Fairfield-Western Maryland Dairy Company were referred to the Cooperative association which advised the farmers whether they could enter the market.
- (7) Fairfield-Western Maryland Dairy Company is alleged by independent distributors to have led in the organization of a new Milk Bottle Exchange during the latter part of 1938 for the purpose of controlling

or stifling competition. Fairfield-Western Maryland Dairy Co. is reported to have discontinued activities on the bottle Exchange when this investigation was started.

- (8) The Baltimore City Department of Health has arbitrarily fixed a fifty-mile radius from the city as the territory within which to inspect dairy farms producing milk for the Baltimore market. Efforts to exclude milk and cream, produced outside the inspected area, from the Baltimore market led to litigation resulting in a decision in the United States District Court that the regulation as administered was a restraint on interstate commerce. (*Miller vs. Williams*, 12 Fed. Sup. 230.) After this decision the Department of Health maintained free inspection of dairy farms within the fifty-mile radius of Baltimore, while shippers beyond the fifty-mile limit were required to pay inspection charges, which, it has been alleged, were prohibitive.

8. Ice cream manufacturing business in Baltimore is in the hands of only a few large companies. The Borden Company with two subsidiaries (Hendler Ice Cream Co. and Borden's Ice Cream Co.) had 38 per cent of the wholesale value (quantities not available) of the total estimated ice cream manufactured and sold in Baltimore during 1937. Beatrice Creamery Company through its Baltimore subsidiary (Jersey Ice Cream Co.) had 13.41 per cent of the total. These two alone accounted for 51.41 per cent of the total. The five largest companies (including Borden and Beatrice) had almost 81 per cent of the total.

9. On October 28, 1938, representatives of Maryland Cooperative Milk Producers, Inc., met with representatives of ice cream manufacturers (including subsidiaries of The Borden Company and of Beatrice Creamery Company) and agreed upon a price to be paid by ice cream manufacturers for 40% butterfat cream purchased from Maryland Cooperative Milk Producers, Inc. during November 1938. They also agreed to meet again each thirty days to establish a price for each succeeding month.

METHODS OF MAKING THE INQUIRY

This report is based on a very limited investigation consisting of:

First, a questionnaire letter to the Departments of Health of a number of milk markets¹ requesting, among other things, the estimated consumption of fluid milk and cream in the market during 1936, 1937, and the first six months of 1938, and also the names of the five largest distributors with the quantities of fluid milk, cream and ice cream sold by each during the same years.

Second, a questionnaire letter to the National Dairy Products Corporation and to The Borden Company requesting information as to their respective organization set-up and operations since 1935.²

Third, field work in the Baltimore marketing area consisting of interviews with a number of distributors and examination of the records of Maryland Cooperative Milk Producers, Inc.

It was the purpose of the investigation to develop information as to the extent of concentration of control of the distribution of fluid milk, fluid cream and ice cream in selected markets and to bring the information with respect to the two Nation-wide distributors (National Dairy Products Corp. and The Borden Co.) of milk and milk products down to date, and also to obtain information on conditions in Baltimore, a nearby market.

Nine of the markets (see page 39), including Baltimore, to which the questionnaire letter was sent responded with usable information. National Dairy Products Corporation replied furnishing the information requested. The Borden Company refused to compile and furnish the information requested on the ground that it and some of its officers and employees were under indictment in the District Court of the United States for the Northern District of Illinois, Eastern Division, for alleged violation of the antitrust laws.³

¹ Akron, Ohio.
Baltimore, Md.
Boston, Mass.
Cincinnati, Ohio
Cleveland, Ohio
Columbus, Ohio
Dallas, Texas
Detroit, Mich.
Fort Worth, Texas

Hartford, Conn.
Houston, Texas
Indianapolis, Ind.
Jacksonville, Fla.
Kansas City, Mo.
Louisville, Ky.
Los Angeles, Calif.
Memphis, Tenn.
Milwaukee, Wis.

Oakland, Calif.
Omaha, Nebr.
Philadelphia, Pa.
Pittsburgh, Pa.
Richmond, Va.
San Francisco, Cal.
St. Louis, Mo.
Washington, D. C.
Toledo, Ohio.

² For full details of replies see pages 19 ff.

³ U. S. vs. The Borden Co., et al., No. 31197 filed Sept. 1, 1938.

PRIOR INVESTIGATIONS AND REPORTS

In connection with any discussion of monopoly and concentration of economic power in, and financial control over production and distribution of milk and dairy products,⁴ reference should be made to the various reports on the milk industry by the Federal Trade Commission, in pursuance of House Concurrent Resolution No. 32, Seventy-third Congress, Second Session, adopted June 15, 1934, to the Congress as follows:

- (1) Report on the sale and distribution of milk products in the Connecticut and Philadelphia milksheds, April 5, 1935. (H. Doc. No. 152, 74th Cong., 1st Sess.)
- (2) An interim report on costs, investments and profits in the Connecticut and Philadelphia milksheds, December 31, 1935. (H. Doc. No. 387, 74th Cong., 2nd Sess.)
- (3) Report on the sale and distribution of milk and milk products in the Chicago sales area, April 15, 1936. (H. Doc. No. 451, 74th Cong. 2nd Sess.)
- (4) Report on the sale and distribution of milk and milk products in the Boston, Baltimore, Cincinnati and St. Louis markets, June 4, 1936. (H. Doc. No. 501, 74th Cong., 2nd Sess.)
- (5) Report on the sale and distribution of milk and milk products in the Twin Cities (Minneapolis and St. Paul) markets, June 13, 1936. (H. Doc. No. 506, 74th Cong., 2nd Sess.)
- (6) Report on the sale and distribution of milk products and milk in the New York milk sales area and on the operations of nation-wide processors and distributors of milk products with headquarters in New York, September 30, 1936. (H. Doc. No. 95, 75th Cong., 1st Sess.)
- (7) Summary report on conditions with respect to the sale and distribution of milk and dairy products, January 4, 1937. (H. Doc. No. 74, 75th Cong., 1st Sess.)

The above reports dealt largely with the distribution of fluid milk and covered conditions existing in the respective markets at the time the reports were submitted. They did not cover in detail the organization and business practices of corporations engaged primarily in the manufacture of butter, condensed and evaporated milk, or ice cream, with the exceptions of National Dairy Products Corporation and The Borden Company which were also large distributors of fluid milk.

The report on the Chicago sales area^{4a} discussed in detail the operations of the Wisconsin Cheese Exchange (Plymouth, Wisconsin) which is alleged to have been dominated and controlled by a few large companies⁵ engaged in purchasing and assembling bulk cheese and in processing and selling processed cheese. Representatives of these companies met on Friday of each week for a session of about fifteen to thirty minutes, at which time small quantities of cheese were sold for the sole purpose of establishing a market price to be paid for bulk cheese throughout the United States during the following week. The membership of the Exchange was made up entirely of dealers or purchasers of bulk cheese. No dairy farmers or bulk-cheese manufacturers were represented on the Exchange, except insofar as some of the large dealers and processors may also manufacture some bulk cheese.

The summary report consisting of only thirty-nine pages briefly summarized the facts given in detail in the other reports and stated conclusions and recommendations based on facts developed during the investigations. Some of the more pertinent findings follow:

"Prices paid producers in most milk marketing areas investigated were usually based on quoted prices of butter and cheese. The quoted price of butter was usually the New York market price of 92-score. Quoted prices of cheese were

⁴ No general investigation has been made of conditions in Central markets where prices of butter are determined.

^{4a} H. Doc. No. 451, 75th Cong., 2nd Sess., pp. 91 to 103.

⁵ (1) Straubel & Company, Green Bay, Wisconsin, a subsidiary of Kraft-Phenix Cheese Corporation, in turn a subsidiary of National Dairy Products Corporation;

(2) Lakeshire Cheese Company, Plymouth, Wisconsin, a subsidiary of The Borden Company;

(3) Pauly & Pauly, Manitowoc, Wisconsin, a subsidiary of the Swift & Company, large meat packers in Chicago;

(4) The Great Atlantic and Pacific Tea Company, a large chain grocery store operator, New York City; and

(5) Wisconsin Cheese Producers Cooperative, Plymouth, Wisconsin, a cooperative organization of some 30 cheese factories located throughout the State of Wisconsin and also a member of Land-o'-Lakes Creameries, a cooperative organization with headquarters in St. Paul, Minnesota.

the prices determined at weekly meetings of the Wisconsin Cheese Exchange at Plymouth, Wis., in which the competitive element was lacking to a large extent.

"A drop in prices charged consumers has usually been accompanied by a reduction in prices paid by distributors to producers; similarly, an increase in the price paid to producers has been followed immediately, in almost every instance, by an increase in the prices charged to consumers, and, in many instances, the latter increase has been greater than that allowed producers. During the period of the depression, while prices paid producers reached a very low point, and there were corresponding decreases in prices charged consumers, nevertheless, the spread was usually sufficient to enable the distributors to show what was, in most instances, a fair margin of profit. Generally speaking, from the facts ascertained during this investigation in a limited number of milksheds, while the full extent of the decreases in prices paid to producers has not always been passed on to the consumers, the full amount of increases in prices paid to producers has usually been added to the prices charged consumers.

"Producers of milk have not always been adequately fortified, in price conferences with distributors, with data sufficient to enable them to discuss the factors relating to prices on equal terms with representatives of distributors, who were usually supplied with minute details of processing and distributing costs and other data relating to milk marketing conditions.

"In markets where the use made of milk by the distributors determined the prices paid to producers, reports by distributors as to proportions of milk sold or used in the many classes generally have not been properly verified by thorough audits of distributors' books to determine whether producers have received in return correct blended prices for milk.

* * * * *

"Large dairy-products concerns engaged in processing milk and manufacturing various milk products, as well as distributing fluid milk in a number of markets, use in some instances the purchasing power incident to the volume and variety of their business, together with the practice of paying for milk according to the use made of it, to depress prices paid to producers for milk. Such practices are detrimental to the interests of dairy farmers and are inimical to the interests of the consuming public.

"These corporations have been built up largely by the acquisition of established businesses, some of which were competitors prior to the acquisition. In some instances acquisitions involved capital stock; but where competition appeared to be substantial, assets were acquired with the effect of avoiding the provisions of section 7 of the Clayton Act, which prohibits a corporation engaged in commerce from acquiring the capital stock 'of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition', or to restrain commerce in any section or community or tend to create a monopoly in any line of business.

* * * * *

"Conflicting provisions and lack of uniformity in the health regulations and inspection rules of the several milk markets and the resulting duplication of farm inspection have added to the burdens and expenses of dairy farmers, with resultant dissatisfaction. It is believed that the adoption of more uniform health and sanitary requirements, such as those set forth in the Standard Milk Ordinance and Code, approved and recommended by the United States Public Health Service, together with a more liberal attitude of health authorities in recognizing and accepting certificates of inspection by accredited inspectors of other jurisdictions, whose health and sanitary requirements are equivalent, would greatly alleviate these conditions.

* * * * *

"It has been established by the investigation that the activities of most of the bona-fide independent cooperative organizations have greatly benefited milk producers. The activities of these organizations should be broadened and encouragement given to the extension of such activities as are authorized by the various Federal and State laws. However, milk producers' cooperative associations should be controlled exclusively by the dairy farmer members."

The Commission also discussed concentration of control of the production and distribution of "milk and milk products" in the report published by the Commission March 2, 1937, and entitled "Agricultural Income Inquiry" (Part I, pages 222 to 256).

DISTRIBUTION OF MILK

Controlled By Large Companies

In the early days before the development of large urban centers of population, milk producers near small towns and cities sold and distributed their milk from door to door through direct contact with the consumer. With the growth and development of large cities came a demand for larger volumes of milk which meant that the supply must come from greater distances, and that more equipment would be necessary to handle, transport and distribute milk. With the discovery of the process of pasteurization to remove harmful bacteria from milk, additional outlay of capital for equipment was necessary. In many cases it was necessary to establish country receiving plants where milk was assembled, cooled and prepared for shipment to the city, requiring additional capital investment. These changing conditions removed the dairy farmer or milk producer farther and farther from the ultimate consumer and gave rise to the distributor and milk dealer.

Distributors began, at a comparatively early date, to form consolidations and mergers of their interests into large distributing units. A number of examples of such units were disclosed by the several reports (referred to above) of investigations of the milk industry, in the Federal Trade Commission, especially in large milk markets such as Chicago, Philadelphia and New York City. Examples of large milk distributing companies formed by consolidations and mergers include such local concerns as Sheffield Farms Co., Inc., of New York City (later acquired by National Dairy Products Corp.); Bowman Dairy Company, Chicago, Illinois; and Supplee-Willis-Jones Milk Company, Philadelphia, Pennsylvania (also later acquired by National Dairy Products Corp.), as well as The Borden Company and National Dairy Products Corporation, both nation-wide milk and other dairy products distributors with headquarters in New York City.^{5a}

The above local distributing units were described in detail by the Commission in its reports on the respective marketing centers, hereinbefore referred to.

Nation-Wide Distributors of Milk and Milk Products

National Dairy Products Corporation and The Borden Company are respectively the largest and second largest concerns engaged in purchasing, processing, manufacturing and distributing milk and milk products in the United States. The organization and operations of these two companies prior to 1936 are discussed in detail in a report by the Federal Trade Commission on the sale and distribution of milk products in the New York sales area (H. Doc. No. 95, 75th Cong., 1st Sess., pages 50 to 115), and a further report by the Commission, on Agricultural Income Inquiry (referred to above).

In its efforts to bring this information on these two nation-wide distributors of milk products down to date, the Federal Trade Commission sent a questionnaire letter on October 7, 1938, requesting substantially the same information from each as to its present organization set-up and current operations. National Dairy Products Corporation^{5b} replied November 25, 1938, submitting substantially the information requested.

Not having received a reply, the Commission again wrote The Borden Company on November 23, 1938, requesting advice as to what progress had been made on the preparation of the material and about what date the Commission may expect to receipt a report. On November 29, 1938, Henry K. Greer of Milbank, Tweed & Hope, 15 Broad Street, New York City, representing The Borden Company, called at the Commission's offices and informed the Commission that The Borden Company had decided that it would not compile and furnish the information requested by the Commission in its letter of October 7, 1938. This decision was confirmed by letter from Milbank, Tweed & Hope to the Commission, dated December 9, 1938, reading in part as follows:

"This letter, written at the request of your Mr. Tackett, will confirm what Mr. Greer of this office told Commissioner Davis and Mr. Tackett recently when he called at your office.

"Our client, The Borden Company, and some of its officers and employees are under indictment in the District Court of the United States of America for the Northern Division of Illinois, Eastern Division, for alleged violation of the anti-

^{5a} Due to the limited time, lack of personnel and funds, no effort was made to investigate other large milk and milk products concerns, such as Beatrice Creamery Co., Fairmont Creamery Co., and others.

^{5b} National Dairy Products Corp. Six of its subsidiaries, and three of its principal officers were under indictment (filed Nov. 1, 1938) in the District Court of the United States for the Northern District of Ill., Eastern Div., for alleged violation of the anti-trust laws.

trust laws. The company's records from which the data you have requested would have to be compiled were subpoenaed in connection with the Grand Jury proceedings and are now in the custody of the Federal Court in Chicago.

"In view of the above, The Borden Company regrets it is unable to supply you with the information requested in your letter of October 7th."

Consequently, the Commission has no information as to the business, operation and practices of The Borden Company subsequent to the publication of the Commission's reports on the "Sale and Distribution of Milk and Milk Products, New York Milk Sales Area," September 30, 1936, and on its "Agricultural Income Inquiry", March 2, 1937.⁶

⁶ *The Borden Co.*—Ranking second in size among the processors and distributors of dairy products in the United States is The Borden Co. In 1934, the milk and milk products purchased by this company were equivalent to about 5¼ percent of the total domestic milk production and 6.8 percent of the commercial production.⁷ (⁷ Table 61, p. 227.)

The Borden Co. was organized and incorporated in 1899, under the name of Borden's Condensed Milk Co., as successor to the New York Condensed Milk Co., which in turn succeeded a business originally established in 1857. In 1919, the corporate name was changed to The Borden Co. The business of the company was originally confined to the manufacture and distribution of condensed milk, but now includes practically all kinds of dairy products.

When Borden's Condensed Milk Co. was organized in 1899, the certificate of incorporation provided for an authorized capital stock of \$20,000,000. At the close of 1927 the par value of the capital stock outstanding amounted to \$34,670,700.⁸ (⁸ Federal Trade Commission, Report on the Sale and Distribution of Milk and Milk Products Through Certain Farmers' Cooperatives in the New York Metropolitan Area and by Nation-Wide Distribution, 1936, p. 149.) compared with \$105,834,875.⁹ (⁹ Poor's 1936 Industrial Volume, p. 796.) at the close of 1930 and \$65,950,560.¹⁰ at the close of 1935.¹¹ In April 1935, the par value was reduced from \$25 to \$15 per share.¹² (¹² *Ibid.*, p. 795.) The Borden Co.'s consolidated assets as of December 31, 1927, after allowing for depreciation and reserves for doubtful accounts and notes, equaled \$29,088,556.¹³ (¹³ Poor's 1929 Industrial Section, p. 2604.) compared with \$188,013,753.¹⁴ at the close of 1930 and \$120,139,742.¹⁵ at the close of 1935. It will be observed that the value of Borden's assets dropped sharply between 1930 and 1935. This was due chiefly to a revaluation of fixed assets and securities and to writing off goodwill and other intangibles, particularly in 1931 and 1935. In the latter year all unserviceable properties were written off and goodwill was reduced from \$7,000,000 to \$1.00. The reduction of assets just mentioned was accompanied by a reduction of almost \$44,000,000 in the company's capital stock.

Consolidated gross sales, excluding intercompany transactions, for the calendar year 1927, amounted to \$132,546,779,¹⁶ compared with consolidation net sales of \$345,422,779.¹⁷ in 1930 and \$229,888,089.¹⁸ in 1935. The decline in dollar sales after 1930, as in the case of the National Dairy Products Corporation, resulted partly from a smaller volume of sales and partly from lower prices for dairy products. Both assets and sales reached their highest points in 1930.

It will be observed that The Borden Co. expanded rapidly after 1927. As in the case of the National Dairy Products Corporation, this expansion was accomplished chiefly through the acquisition of well established dairy companies. At the close of 1927, The Borden Co. owned and operated 3 fluid milk distributing companies, 7 manufacturing and selling companies, and 25 other subsidiaries. During the 5-year period from 1928 to 1932, however, the company acquired either directly or indirectly, through its subsidiaries, 207 separate enterprises engaged in processing and distributing one or more kinds of dairy products, of which 27 were acquired in 1928, 129 in 1929, 39 in 1930, 10 in 1931, and 2 in 1932.¹⁹ (¹⁹ Federal Trade Commission, Report on the Sale and Distribution of Milk and Milk Products Through Certain Farmers' Cooperatives in the New York Metropolitan Area and by Nation-Wide Distributors, 1936, appendix table III.) Of the 207 companies acquired during this period, 186 were located in the United States and 21 in foreign countries, principally in Canada. The domestic companies were located in 18 different States representing New England, the Middle Atlantic group, the Middle West, the Southwest, and the Pacific Coast. Of the domestic companies, about 56 were engaged in the general dairy business, approximately 53 were engaged chiefly in processing and distributing fluid milk and cream, 50 were ice cream companies, 14 were principally manufacturers of butter and cheese, 4 manufactured casein, 3 produced condensed and powdered milk, 2 were producers of canned and dried eggs, and 4 manufactured miscellaneous products, such as milk sugar, malted milk, beverages, and ice.²⁰

Among the more important acquisitions of The Borden Co. during this period were the Reid Ice Cream Corporation, acquired at the end of 1927; J. M. Horton Ice Cream Co., Inc., Merrell-Soule Co., Gridley Dairy Co., and the Weiland Dairy Co., and affiliated firms acquired in 1928; and the Dairy Dale Co., including affiliated companies, Casein Company of America, and affiliated companies, and Central Distributors, Inc., and subsidiaries, acquired in 1929. With the exception of the Gridley Dairy Co. (acquired through the purchase of its entire capital stock), all of the above companies were acquired through the purchase of their assets and business.

Of the 186 domestic companies acquired by The Borden Co. in the 5-year period from 1928 to 1932, control of 28 was obtained through the purchase of their capital stock or that of the parent company to which they belonged, while 141 were acquired through the purchase of all or part of their assets. In the case of 15, both stock and assets were required, and 2 were obtained through the purchase of either the capital stock or the assets of holding companies of which they were a part.²¹ (²¹ Federal Trade Commission, Report on the Sale and Distribution of Milk and Milk Products Through Certain Farmers' Cooperatives in the New York Metropolitan Area and by Nation-Wide Distributors, 1936, appendix table III.)

With the exception of cash used in retiring the outstanding bonds and preferred stock of the acquired companies, the consideration involved in practically all of the aforementioned acquisitions consisted of capital stock of The Borden Co. During the 4-year period from 1928 to 1931, The Borden Co. issued 1,965,078 shares of its capital stock expressly for the purpose of acquiring either the stock or the assets of 124 of the companies acquired during that period.²² (²² *Ibid.*, p. 150.)

Subsequent to these acquisitions, the acquired companies were reorganized. The business and assets of some companies were transferred to others, and in July 1929 their operations were placed under the supervision of four subholding companies; namely, Borden's Food Products Co., Inc., Borden's Dairy Products Co., Inc., Borden's Ice Cream and Milk Co., Inc., and Borden's Cheese and Produce Co., Inc.²³ (²³ Federal Trade Commission, Report on the Sale and Distribution of Milk and Milk Products Through Certain Farmers' Cooperatives in the New York Metropolitan Area and by Nation-Wide Distributors, 1936, p. 152.) At the close of 1935, these 4 companies held the capital stock of about 50 operating subsidiaries. Early in 1936 The Borden Co. was reorganized and became an operating rather than a holding company. Under the reorganization, the 4 subholding companies were dissolved and their assets and business, including all except 14 of their subsidiaries, were taken over by the parent company.²⁴ (²⁴ *Ibid.*, p. 153.) Those 14 companies were retained as operating subsidiaries either for the purpose of protecting trade names or in order to facilitate operations of The Borden Co.

NATIONAL DAIRY PRODUCTS CORPORATION

National Dairy Products Corporation is a holding company organized for the purpose of acquiring and holding the capital stock of other corporations engaged in milk and dairy products industries. It was incorporated December 8, 1923, and immediately thereafter acquired the capital stock of Hydrox Corporation primarily engaged in the manufacture and sale of ice cream in Chicago, Illinois. It also acquired all of the capital stock of the Rieck-McJunkin Dairy Company primarily engaged in the distribution of fluid milk in Pittsburgh, Pennsylvania, but also engaged in the manufacture and sale of numerous milk products. The business of these two subsidiaries formed a nucleus around which many acquisitions have been made. Since its organization, National Dairy Products Corporation has acquired the capital stock or the assets in whole or in part of more than 360 concerns engaged in the various branches of milk and milk products industries.⁷

Of the 362 companies acquired (See Exhibit No. I), 176 were capital stock acquisitions; 135 were asset acquisitions, wherein the assets were assigned to and merged with the assets of existing subsidiaries, and 51 were asset acquisitions in which the old company was dissolved and the assets transferred to a new company organized under the same or similar name.

It was the practice of National Dairy Products Corporation to investigate each proposed acquisition, and if it was found there was no competition between the company whose acquisition was being considered and any existing subsidiary of National Dairy Products Corporation, the capital stock was acquired. If, however, there was competition, and if acquisition of the capital stock might involve a possible violation of Section 7 of the Clayton Act, the assets were acquired, thus avoiding the provisions of the Clayton Act, which declares that—

"No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or to create a monopoly of any line of commerce."

It was also a general policy of National Dairy Products Corporation, especially where assets instead of capital stock were acquired, to cause the old corporation to be dissolved and a new corporation to be organized under the same or similar name to take over and operate the assets. Such new corporations were usually organized with a nominal capitalization, the holding company subscribing to and holding all of the issued and outstanding capital stock. In many instances only a portion of the assets were acquired, in which cases they were transferred to an appropriate existing subsidiary. This was true, for instance, where only the fluid milk distributing business or the ice cream business was desired. In some cases the individuals controlling or managing the company acquired were bound by contracts not to engage in business in competition with the acquired company for a fixed number of years.

Extent of Operations

National Dairy Products Corporation, through expansion by acquisition of established concerns, has extended its operations throughout the United States and the Dominion of Canada. It is the largest distributor of milk and other dairy products in the United States. The total sales of the corporation for 1937 amounted to \$351,015,643.84. The consolidated net profit of National Dairy Products Corporation and its subsidiaries after making provisions for interest depreciation and all federal and state taxes during 1937, amounted to \$10,290,731.52, equivalent to \$1.53 per share on 6,263,880 shares of no par common stock after provisions were made for preferred stock dividends. The authorized capital stock of National Dairy Products Corporation as of December 31, 1937, consisted of 8,000,000 shares of no par common stock, 69,244 shares of Class A 7% cumulative preferred stock, and 50,000 shares of Class B cumulative preferred stock; of which 6,263,880 shares of the common, 57,339 shares of the Class A preferred stock and 41,370 shares of the Class B preferred issued and outstanding.

The principal income to National Dairy Products Corporation is in the form of dividends received from subsidiary companies. During 1935, 1936 and 1937,

⁷ Exhibit No. I (page 3165) shows a list of concerns acquired by National Dairy Products Corporation in chronological order from the date of its organization, (December 8, 1923) to November 15, 1938, indicating the location, date of acquisition, whether assets or capital stock were acquired, and the principal products handled or sold by each such organization prior to its acquisition.

sixty subsidiaries paid dividends to the parent company amounting to \$18,912,-403.65 during 1935; \$13,841,638 during 1936; and \$8,690,211.62 during 1937.

The National Dairy Products Corporation paid dividends on its capital stock as follows:

| | |
|-----------------------------|-------------------|
| 1936----- | \$8, 196, 704. 40 |
| 1937----- | 8, 197, 259. 40 |
| 1938 (to Oct. 1, 1938)----- | 5, 522. 419. 85 |

Acquisitions by National Dairy Products Corporation were usually financed by the issuance of stock in the holding company with comparatively little outlay of actual cash. The preferred stocks of both classes were issued in part payment for assets or capital stock acquired. All of the Class A preferred stock was issued for an equal number of shares of preferred stock in Supplee-Wills-Jones Milk Company of Philadelphia, Pennsylvania, and all of the Class B preferred stock was issued in part payment for the assets of Breyer Ice Cream Co., also of Philadelphia, Pennsylvania. Up to May 21, 1936, 3,044,269 shares of the then outstanding common stock (6,263,165 shares as of January, 1936) of National Dairy Products Corporation had been issued in exchange for stock or assets of acquired companies.

Subsequent to their acquisition, several of the companies acquired were re-organized and consolidated. On November 15, 1938, there were 96 active subsidiaries whose stock was held directly by National Dairy Products Corporation or by one or more of its subsidiary corporations, of which 77^a were actively engaged in the milk and dairy products industries within the United States. The remaining active corporations were either engaged in other allied lines of business or were foreign corporations whose activities were not reported by the company. There were also 63 inactive corporations whose stocks were held by the National Dairy Products Corporation or one of its subsidiaries. The inactive corporations were kept alive, in some cases at least, to protect the names of companies whose stock or assets including good will, had been acquired.

Seventy-three subsidiaries shown in Exhibit No. III (page 137) operate 504 plants located in 41 states and the District of Columbia, are engaged in receiving, processing, and/or manufacturing milk and milk products. Thirty-three of them, operating fifty-two pasteurizing and distributing plants are primarily engaged in the distribution of fluid milk, and distributed 204,486,212 gallons of milk for consumption in fluid form during 1937. The fluid milk companies operated 171 country receiving plants in fifteen states, for the purpose of assembling milk for preparation and shipment to city pasteurization plants. Five subsidiaries operated eighteen plants in twelve states for the production of creamery butter and produced 102,139,974 pounds during 1937. Nine companies, operating 120 plants in twenty-five states, are engaged in the manufacture of cheese and produced 291,166,676 pounds during 1937. Twenty-four companies operate eighty plants in twenty-two states manufacturing ice cream and produced 47,484,967 gallons of ice cream mix during 1937. Seven companies operate forty-seven plants in fifteen states producing condensed and evaporated milk, and produced 2,583,572 gallons of whole and skim plain condensed milk, 2,731,822 gallons of evaporated milk, and 21,120,368 pounds of whole skim sweet condensed milk during 1937.

Proportion of Total U. S. Business in Milk and Milk Products Handled by National Dairy Products Corporation

The following tabulation showing the total reported annual production of milk on farms and (quoting from annual report of the corporation for 1937) "approximate number of pounds of milk of 3.5% butterfat (one quart equals 2.15 pounds) used for the products your company [National Dairy Products Corporation] sells including milk in fluid form as well as in the form of cheese, butter, ice cream, various condensed and evaporated milks and other manufactured milk products", 1931 to 1937, inclusive, has been prepared from the latest production reports of the Bureau of Agricultural Economics and the annual report of National Dairy Products Corporation for 1937.

^a Exhibit No. II shows a list of subsidiaries paying dividends to National Dairy Products Corporation annually during 1935, 1936 and 1937, and the amounts paid by each.

^b Exhibit No. III shows a list of operating subsidiaries of National Dairy Products Corporation (handling milk and milk products), and location of their respective plants, classified with respect to the principal products received, processed, manufactured, or handled by each. The locations of these plants are graphically shown on a map attached hereto as Exhibit No. IV.

| Year | Total Milk Produced on Farms | Total Milk Used by National Dairy Pro. Corp. | Percent |
|------|------------------------------|--|---------|
| | (Pounds) | (Pounds) | |
| 1931 | 101,970,000,000 | 8,631,773,000 | 8.47 |
| 1932 | 101,863,000,000 | 8,292,086,000 | 8.14 |
| 1933 | 102,309,000,000 | 7,890,686,000 | 7.71 |
| 1934 | 101,528,000,000 | 8,276,904,000 | 8.15 |
| 1935 | 101,421,000,000 | 8,465,514,000 | 8.35 |
| 1936 | 103,183,000,000 | 9,005,818,000 | 8.73 |
| 1937 | 103,132,000,000 | 9,354,296,000 | 9.07 |

The above tabulation shows that National Dairy Products Corporation and its subsidiary companies have consistently distributed annually the products of from 7.7 to 9 percent of all the milk produced on the farms in the United States during the 7-year period (1931-1937). It should be noted that from 20 to 25 percent of the milk produced on farms is consumed by farmers where produced, either in the form of fluid milk, butter (made on farms) or fed to stock by farmers (including milk fed to calves). Only 75 to 80 percent of the total milk produced is processed, or manufactured or distributed to the ultimate consumer in the form of fluid milk, fluid cream, butter, ice cream, cheese and numerous other products of milk. Therefore, if the purchases by National Dairy Products Corporation were compared only with the milk available for processing and manufacturing purposes, the percentages would be much higher.

The statement next following shows the utilization of the total milk produced in the United States and the percentage of the several uses represented by milk and milk equivalent of products handled by National Dairy Products Corporation (excluding operations of foreign subsidiaries), for 1936 (the last year for which such figures are available).

| | Total Production Reported by U. S. Bureau of Agricultural Economics | Milk Equivalent of Products Sold by National Dairy Prod. Corp. | |
|--------------------------------------|---|--|---------|
| | Pounds | | |
| Total Production on farms..... | 103,183,000,000 | | |
| Not on farms..... | 2,826,000,000 | | |
| | 106,009,000,000 | | |
| Utilization (Milk equivalent): | | | |
| Commercial Milk (sold by farmers): | | Pounds | Percent |
| Milk & Cream (not used on farm)..... | 31,848,000,000 | 1 2,699,396,571 | 8.48 |
| Creamery Butter..... | 32,647,000,000 | 2 240,012,228 | 6.86 |
| Ice Cream..... | 2,875,000,000 | 3 681,918,829 | 23.72 |
| Cheese..... | 6,446,000,000 | 4 2,508,076,888 | 38.91 |
| Concentrated Milk Prod..... | 5,103,000,000 | 5 285,387,941 | 5.59 |
| | 78,919,000,000 | 8,414,792,457 | 10.86 |
| Used on farms where produced: | | | |
| Milk & Cream..... | 12,522,000,000 | | |
| Butter (produced on farm)..... | 10,597,000,000 | | |
| Fed to calves..... | 2,794,000,000 | | |
| Other uses, and to balance..... | 1,177,000,000 | | |
| | 106,009,000,000 | | |

¹ Fluid Milk, fluid cream, chocolate milk, buttermilk, and milk and buttermilk specialties.

² Includes ice cream mix.

³ Includes cream cheese and cottage cheese.

⁴ Evaporated milk, plain and sweet condensed milk, malted milk, and milk powder.

The above figures show that, during 1936, subsidiaries of National Dairy Products Corporation handled 8.48 percent of the estimated commercial milk and cream used in fluid form in the United States, 6.86 percent of milk used to produce creamery butter, 23.72 percent of the milk used in the manufacture of ice cream, including ice cream mix, 38.91 percent of the milk used in the manufacture of cheese, and 5.59 percent of milk used in the manufacture of all other milk products.

Exhibit V (p. 3189)¹⁰ shows that fluid milk was the largest item, amounting to approximately 35 percent of the total domestic sales of milk and milk products in 1936, and 34 percent in 1937. Cheese was the second largest item, amounting to about 22 percent of their total domestic sales of milk and dairy products in 1936, and 23 percent in 1937. Other commodities in the order of their importance were ice cream, butter, fluid cream, evaporated milk, and fluid milk specialties.

The proportion of total United States production of butter, cheese, and ice cream handled by subsidiaries of National Dairy Products Corporation during 1936 and 1937 are shown in the following statement:

| | Total Production in the United States | Total Handled by National Dairy Pro. Corp. | Percent Handled by Nat'l Dairy Pro. Corp. |
|--|---------------------------------------|--|---|
| 1936 | | | |
| Creamery butter (lbs)..... | <i>Pounds</i> 1, 029, 407, 000 | <i>Pounds</i> 97, 866, 632 | <i>Percent</i> 6.01 |
| Cheese (excluding cottage, pot & bakers') lbs..... | 642, 571, 000 | 274, 524, 362 | 42.72 |
| Ice Cream (gals)..... | 243, 551, 000 | 43, 684, 471 | 17.94 |
| 1937 | | | |
| Creamery butter (lbs)..... | 1, 623, 771, 000 | 102, 139, 974 | 6.29 |
| Cheese (excluding cottage, pot & bakers') lbs..... | 649, 405, 000 | 291, 166, 676 | 44.84 |
| Ice Cream (gals)..... | 280, 901, 000 | 47, 484, 967 | 16.90 |

These figures show that National Dairy Products Corporation and its subsidiary operating companies handled more than six percent of the total creamery butter (excluding that produced on farms for consumption on farms), 42 to 45 percent of all the cheese (excluding cottage, pot, and bakers' cheese), and 17 to 18 percent of all the ice cream manufactured in the United States.

In addition to its vast business in the cheese industry, Kraft-Phenix Cheese Corporation, one of the largest subsidiaries of National Dairy Products Corporation, has an agreement with Armour & Company, dated May 7, 1937, covering the processing and packaging of cheese. Under this contract, which was in the form of a letter, addressed to, and accepted by, Armour & Company, "Armour agreed to have Kraft process its entire requirement of pasteurized process cheese, during a three year period", and "Kraft agreed to process and pack during said period cheese to be furnished by Armour and to deliver to Armour for each pound of cheese furnished by Armour a pound of process cheese packaged products upon the terms and conditions", set forth in the agreement. Armour was given an option to extend the agreement for an additional two years upon the same terms and conditions by giving a 60-day notice to that effect prior to the expiration of the three-year period. Kraft agreed to give the processing and packaging of the process cheese for Armour the same attention as to quality and service as is given to its (Kraft's) own proprietary brands, and to accept full responsibility for furnishing process cheese to Armour that conform to the Federal Standards as to fat and moisture. The cheese was to be processed for Armour in the Kraft plants at Green Bay, Wisconsin; Freeport, Illinois; Atlanta, Georgia; Denison, Texas; and Pocatello, Idaho, at a cost per pound of finished product f. o. b., said plants, as follows:

| | F. O. B. Green Bay and Freeport | F. O. B. Atlanta, Denison, Pocatello | | F. O. B. Green Bay and Freeport | F. O. B. Atlanta, Denison, Pocatello |
|-------------------------|--|---|-------------------------------|--|---|
| 5-pound Loaf: | <i>Cents per Pound</i> | <i>Cents per Pound</i> | | <i>Cents per Pound</i> | <i>Cents per Pound</i> |
| American..... | 2½ | 3¼ | ½-pound package—Contd. | 5¾ | 6¼ |
| Pimento..... | 2¾ | 3½ | Blended Swiss..... | 5¾ | 6¼ |
| Blended Swiss..... | 3½ | 4 | ¼-pound Package: | | |
| Blended Brick..... | 3½ | 4 | American..... | 7 | 7½ |
| ½-pound Package: | | | Pimento..... | 7½ | 7¾ |
| American..... | 5 | 5½ | Blended Swiss..... | 7¾ | 8¼ |
| Pimento..... | 5½ | 5¾ | Blended Brick..... | 7¾ | 8¼ |

¹⁰ The principal dairy products processed, manufactured, handled and sold by subsidiaries of National Dairy Products Corporation, the quantity sold and sales value of each during 1936, 1937 and the first six months of 1938 are shown on Exhibit No. V.

Kraft also agreed to package and sell to Armour the Kraft specialty lines "at the prices quoted for the same products under the Kraft label from time to time in the Kraft retail price list less a discount of 10% less 8% less 10% f. o. b. the Kraft Manufacturing plants."

Under the above agreement, which became effective June 1, 1937, Kraft-Phenix Cheese Corporation processed and packed for Armour & Company, the following quantities for which Kraft-Phenix Cheese Corporation received the amounts noted:

| Size of Package | 1937 (June-Dec.) | | 1938 | |
|---------------------|------------------|--------------------------|------------|--------------------------|
| | Pounds | Amount Rec'd for Service | Pounds | Amount Rec'd for Service |
| 5 lb. Loaf..... | 9,467,518 | \$284,391.91 | 16,864,710 | \$483,636.71 |
| 2 lb. Loaf..... | 473,632 | 19,791.73 | 1,633,220 | 68,238.19 |
| 1½ lb. package..... | 313,915 | 17,435.72 | 888,408 | 48,644.63 |
| ¾ lb. package..... | 674,832 | 49,228.91 | 1,229,292 | 89,875.57 |
| Total..... | 10,929,897 | 370,848.27 | 20,615,630 | 690,395.10 |

The above tabulation shows that during the last seven months of 1937, Kraft-Phenix Cheese Corporation processed and packaged for Armour & Company 10,929,897 pounds of cheese for which Kraft-Phenix Cheese Corporation received \$370,848.27 and that in 1938, the quantity processed was 20,615,630 pounds, the service charges for which amounted to \$690,395.10.

LARGE PROPORTION OF FLUID MILK HANDLED BY ONLY A FEW COMPANIES IN CERTAIN METROPOLITAN MARKETING AREAS

Information furnished by City Health Department officials, in response to requests from the Commission, shows that a substantial proportion of the distribution of milk is in the hands of a few large dealers in each of the following milk markets:

1. Baltimore, Maryland
2. Boston, Massachusetts
3. Hartford, Connecticut
4. Louisville, Kentucky
5. Milwaukee, Wisconsin
6. New York City, New York
7. Philadelphia, Pennsylvania
8. Youngstown, Ohio
9. San Francisco, California.

There was no opportunity to further investigate current conditions in these markets, except Baltimore. The information furnished for Baltimore, which was typical of the other markets, was supplemented by field work and is far more complete than for the other markets.

Baltimore, Maryland, Milk Market

According to estimates by the City Department of Health, Baltimore consumed, during 1937, approximately 17,778,055 gallons of fluid milk and the equivalent of 3,371,870 gallons of milk in the form of fluid cream and 3,537,945 gallons of milk in the form of ice cream. About 90 percent of this milk is marketed for its dairy farmer members by Maryland Cooperative Milk Producers, Inc., a cooperative marketing association composed of approximately 3100 dairy farmers shipping fluid milk to dealers in Baltimore.

Milk in Baltimore is distributed by about 21 dealers, of which 13 handled milk sold to them by Maryland Cooperative Milk Producers, Inc. For 1937, this amounted to 23,818,724 gallons of milk of all classes including surplus milk. The following statement shows the quantity and percentage of the total milk purchased from or handled for Maryland Cooperative Milk Producers, Inc. by each of the five largest distributors during 1936 and 1937:

| Company | 1936 | | 1937 | |
|--|------------|---------|------------|---------|
| | Gallons | Percent | Gallons | Percent |
| Fairfield-Western Maryland Dairy Co..... | 17,506,708 | 73.08 | 15,871,935 | 66.64 |
| Clover Farms Dairy Co..... | 2,832,831 | 11.83 | 2,641,626 | 11.09 |
| Green Springs Dairy Co..... | 1,213,714 | 5.07 | 1,415,523 | 5.94 |
| Wills Dairy Co..... | 720,459 | 3.01 | 971,642 | 4.08 |
| Highland Farms Dairy..... | 345,909 | 1.44 | 898,498 | 3.77 |
| Total 5 companies..... | 22,619,621 | 94.43 | 21,799,224 | 91.52 |
| Eight other dealers..... | 1,335,236 | 5.57 | 2,019,500 | 8.48 |
| Total Cooperative Ass'n Milk..... | 23,954,857 | 100.00 | 23,818,724 | 100.00 |

The figures were compiled from the records of Maryland Cooperative Milk Producers, Inc., and are the only distribution figures available for the Baltimore market. However, in order to show more definitely the concentration of control of all milk sold in Baltimore, the tabulation next following has been compiled from Association records, as to its customers, and from estimates by independent dealers, showing the number of gallons and the percentage of the total estimated milk of all classes handled and distributed by all dealers including independent dealers as well as those buying from the Association, during the first six months of 1938:

| | Gallons | Per- cent | | Gallons | Per- cent |
|--|------------|--------------|---|------------|--------------|
| Cooperative Ass'n Milk: | | | Independent Milk: | | |
| Fairfield-Western Mary- land Dairy..... | 8,022,344 | 55.13 | Donloggen Farm Dairy..... | 212,400 | 1.46 |
| Cloverland Farms Dairy..... | 1,278,770 | 8.79 | Hillcrest Dairy..... | 27,000 | .19 |
| Green Spring Dairy..... | 825,297 | 5.67 | Koontz Creamery, Inc..... | 491,580 | 3.38 |
| Wills Dairy..... | 439,761 | 3.02 | Kolb Bakery & Dairy, Inc..... | 162,000 | 1.11 |
| Biemiller Dairy..... | 178,818 | 1.23 | Hamilton Farms Dairy..... | 76,500 | .52 |
| Bowman Dairy..... | 238,165 | 1.64 | Sunset Farms Dairy..... | 163,800 | 1.13 |
| Delvale Dairy..... | 150,041 | 1.03 | Royal Farms Dairy..... | 234,000 | 1.61 |
| Hendler Ice Cream Com- pany..... | 53,698 | .37 | Wilton Farms Dairy..... | 360,000 | 2.47 |
| Hilton Farms Dairy..... | 155,456 | 1.07 | Unreported Independent Milk (estimated)..... | 304,814 | 2.09 |
| Highland Farms Dairy..... | 455,504 | 3.13 | Total Independent Milk.. | 2,032,094 | 13.96 |
| Sylvan Seal..... | 259,160 | 1.78 | Total..... | 14,552,349 | 100.00 |
| Koontz Creamery, Inc..... | 241,795 | 1.66 | | | |
| Kress Farms Dairy..... | 221,446 | 1.52 | | | |
| Total handled by Mary- land Coop. Milk Pro- ducers, Inc..... | 12,520,255 | 86.04 | | | |

The five largest customers of Maryland Cooperative Milk Producers, Inc., handled 94.43 percent of the milk produced by its members in 1936 and 91.52 percent in 1937. The same five dealers distributed the following percentages of total milk of all classes handled by all dealers in the Baltimore area during the first six months of 1938:

| | Percent |
|--|---------|
| Fairfield-Western Maryland Dairy Co..... | 55.13 |
| Cloverland Farms Dairy Co..... | 8.79 |
| Green Spring Dairy Co..... | 5.67 |
| Highland Farms Dairy..... | 3.13 |
| Wills Dairy Co..... | 3.02 |
| Total..... | 75.74 |

Fairfield—Western Maryland Dairy Co.

According to report (November 25, 1938) by National Dairy Products Corp., its subsidiary (Fairfield-Western Maryland Dairy Co.)* sold 10,902,910 gallons of fluid milk in Baltimore during 1936, and 10,851,947 gallons in 1937. All of the milk handled by this subsidiary of National Dairy Products Corp. is purchased

*All of the outstanding capital stock of Western Maryland Dairy Corporation (including Fairfield Farms, Inc., and Millers Dairies, Inc.) was acquired by National Dairy Products Corporation as of December 31, 1930, in exchange for 135,378 shares of the common stock of National Dairy Products Corp.

from Maryland Cooperative Milk Producers, Inc. The milk received from the Association, which is not required to supply the fluid milk and fluid cream requirements of Fairfield-Western Maryland Dairy Company, is separated:

into cream and skimmilk. The cream is either turned over to the cooperative, or is sold by Fairfield-Western Maryland Dairy Corp. for the account of the cooperative, in which latter event the entire proceeds are turned over to the cooperative. The skimmilk is retained by Fairfield-Western Maryland Dairy Corporation in payment for the service. (Report by National Dairy Products Corp. November 25, 1938.)

The above arrangement is not covered by written contract but is done "as a matter of long-standing custom". (Ibid.)

The following statement shows the quantity of fluid milk sold by Fairfield-Western Maryland Dairy Company and its percentage of total sales of fluid milk (Class I milk) in Baltimore as estimated by the Commissioner of Health during 1936 and 1937:

| Year | Total Sales | Fairfield-Western Maryland Sales | |
|------|-------------|----------------------------------|---------|
| | Gallons | Gallons | Percent |
| 1936 | 17,603,585 | 10,902,910 | 61.93 |
| 1937 | 17,778,055 | 10,851,947 | 61.04 |

The figures indicate the subsidiary of National Dairy Products Corp. sold almost 62% of the total fluid milk distributed in Baltimore during 1936 and over 61% during 1937.

While Fairfield-Western Maryland Dairy Company distributed in fluid form only 10,902,910 gallons of the total milk (17,506,708 gallons) received from the Cooperative Association during 1936, by separating the excess of receipts over requirements, this milk was kept off the fluid market and out of competition with the fluid milk sales of the company. It should be noted that during 1936 this subsidiary of National Dairy Products Corp. received almost enough fluid milk from the Association, produced in accordance with health regulations, to have supplied the total estimated consumption of fluid milk (17,603,585 gallons) in Baltimore.

Fairfield-Western Maryland Dairy Co. Used Influence to Get Salary Increase For Manager of the Cooperative Ass'n

Examination of the records of Maryland Cooperative Milk Producers, Inc., disclosed facts indicating that Fairfield-Western Maryland Dairy Company used its influence to get an increase in salary for Mr. I. W. Heaps (now deceased), former Manager of Maryland Cooperative Milk Producers, Inc.

Mr. Lawrence Wooden, president of Koontz Creamery Inc., a distributor, purchasing a part of its supply of milk from independent sources, when interviewed by one of the Commission's attorneys on October 28, 1938, stated in substance:

"Mr. Heaps, while working with the Dairymen's Association received only about \$5,000 or \$6,000 a year for his service. When he asked the Association for an increase in pay he was refused. Mr. Heaps then presented himself to Western Maryland Dairy and asked for a position. The dairy agreed to hire Mr. Heaps and secured from him an employment contract at a salary of about \$15,000 a year, whereupon the Dairymen's Association became frightened and tried to get Mr. Heaps to stay with them. He then told of his contractual obligation to the Western Maryland Dairy. The Maryland Cooperative Milk Producers went to the Western Maryland Dairy and asked to have Mr. Heaps released from his contract with them. The dairy then stated that they would release Mr. Heaps from his contract if the Cooperative Milk Producers would pay Mr. Heaps \$20,000 a year for his services. This the association agreed to do. Mr. Wooden stated that he was certain that the above situation did happen, as at the time Mr. Heaps was released by the Western Maryland Dairy, he himself (Mr. Wooden) was a vice president of that dairy. In fact, until just about a year ago he (Mr. Wooden) served the Fairfield-Western Maryland Dairy in the capacity of vice president."

In addition to the \$20,000 salary received from Maryland Cooperative Milk Producers, Inc., Mr. Heaps received a salary of \$5,000 per year from the Eastern States Milk Marketing Association consisting of Maryland Cooperative Milk Producers, Inc., and Maryland & Virginia Milk Producers Association, Inc.

The records of Maryland Cooperative Milk Producers, Inc., show that in May 1926, Mr. Heaps was receiving a salary of \$625 per month, or \$7,500 per year. On February 8, 1927, Mr. Heaps tendered his resignation to the Board of Directors of the Maryland State Dairymen's Association and signed a contract of employment with Western Maryland Dairy Co., now a subsidiary of National Dairy Products Corporation. The officers of the Cooperative decided to again secure Mr. Heaps' services if possible, as indicated by the following excerpts, including a motion and discussion, from the minutes of a meeting of a Special Committee, (undated) as follows:

"Moved and seconded that this Committee recommend to the Board of Directors of the Maryland State Dairymen's Association that they offer Mr. Heaps a five-year contract, equal in salary to the amount offered Mr. Heaps by the Western Maryland Dairy.

"Mr. ZENTZ. So far as salaries are concerned, I do not think Mr. Heaps' salary is too large.

"Mr. GIST. These two dealers we must satisfy to continue. That is all I have to say.

"Mr. SHOEMAKER. * * * It seems to me that the farmer should know him in a general way, at least, why you want Mr. Heaps here and how he had succeeded in doing what he has done. Without that, what guarantee have any of us that you may make the arrangements today and at the next annual meeting, your farmers might say that they do not care for such a man who has such a big interest in the largest dairy. What is there to prevent the farmers from taking that attitude about anything Mr. Heaps may care to do?

"Mr. HENRY. * * * It would be a big thing for Mr. Heaps, if he could say that he turned down a \$15,000 or \$20,000 offer to stay with the Association.

"Fourth: It is recommended by this Committee of the Board of Directors of the Maryland State Dairymen's Association that they offer to Mr. Heaps a contract for a term of five (5) years at a salary of \$20,000 per annum. On a ye and nay vote, called by Mr. Gist, the motion by Dr. Shermantine, was carried, the vote being as follows.

"For: Messrs. Sander, Kuhn, Gouthorn, Pearce, Shermantine, Zentz, Gist, Kilgore and Kerr.

"Against: Mr. Hany."

On March 18, 1927, there was a "meeting of the Special Committee" appointed by the president to wait upon the Western Maryland Dairy in regard to the release of Mr. Heaps from that Dairy. (To quote from minutes of meeting of Special Committee, March 18, 1927, in part:)

"This Committee called at Mr. Baxter's office * * * and after going over the situation very thoroughly, Mr. Baxter told the Committee he would guarantee that his Board of Directors would release Mr. Heaps, and it would be all right to call a Board Meeting of the Directors of the Maryland State Dairymen's Association. He expressed himself as having had more pleasure and satisfaction out of his business since the organization began than ever before, and stated he would be the last person to cause it embarrassment in any way."

The next directors meeting was held on March 23, 1927, in which Mr. Heaps is named as one of the directors present. At this meeting an agreement was entered into reading in part as follows:

"That said association agrees and covenants to employ and hereby does employ said party of the second part (Isaac W. Heaps) as business manager of the said association for a period of five years beginning on the first day of March, 1927, and ending on the 28th day of February, 1932, at and for the annual salary of twenty thousand dollars (\$20,000.00) payable in equal monthly installments on the last day of each month, and said party of the second part hereby agrees and covenants to accept said employment for the period and at and for the compensation heretofore in this paragraph set forth.

"The vote on this agreement was as follows:

"For: Messrs. Sander, Kuhn, Kerr, Gist, Wheeler, Kilgore, Zentz, Couthorn, and Pearce.

"Against: Mr. Hany.

"In explaining his vote, Mr. Hany stated he was opposed to the motion for two reasons; 1st, he did not think the contract legal, as it was for too long a period; 2nd, the salary was too high."

Distributors Aided Cooperative Manager to Induce Dairy Farmers to Sign New Contract

Maryland Cooperative Milk Producers, Inc., decided in the early part of 1933 to change the form of its contract with dairy farmer members. This decision was explained in a *personal* and *confidential* letter from I. W. Heaps, manager of Maryland State Dairymen's Association, to J. Clausen Jones, vice president of Fairfield-Western Maryland Dairy Co., on May 7, 1935,¹² in part as follows:

"During the month of April, 1933, our Board of Directors decided to adopt what is now known as the Association's new contract. No new shippers have been signed up on any contract other than the new ones since the summer of 1933. When the last Government license was cancelled our Board of Directors decided that the time had come when we should endeavor to sign all members on a new contract, which contract provides for immediate action against the seller and buyer of milk and does not force us to go to court to collect damages."

* * * * *

"We fully realize that to make a success of this we need the 100% cooperation of all cooperating dealers. We, therefore, suggest that if the dealers can see their way clear to write us, that due to the high percent of their production being signed on a new contract, they have decided they will buy no milk from our member-producers except from such producers as have signed the new contract, setting forth some specific date for this change. We believe we could then write these shippers that we could not handle their milk after the date the dealers had established unless they signed this new contract."

No reply to this letter was found in the cooperative Association files. It appears, however, that substantially the same letter was written to a number of distributors in Baltimore, and on May 16, 1935, the Association wrote a form letter to its members, reading in part as follows:

"We have been notified by the cooperating dealers that after May 25, they will not accept milk from our association members unless we can guarantee them that said members will not divide their production—that is, ship part through the Maryland State Dairymen's Association, and part elsewhere—and will deliver their milk in accordance with their contract. To enable us to meet this demand, it will be necessary for this association to require each of our members who have not signed a new contract to do so, and have same in this office on or before May 25."

James M. Weaver, a dairy-farmer member of Lineboro, Maryland, wrote on the back of the circular on May 20, 1935, declining to sign the contract, and saying:

"If you do not want my milk without signing the new contract please let me know in time, so I can sell somewhere else."

To which Mr. Heaps replied on May 21, 1935, saying:

"In reference to signing a new contract with this association, first let me say our old contract has been used for 17 years and is one of the oldest in the United States. It was taken out under the old cooperative law of 1908. A new and more liberal cooperative law was passed by our Legislature in 1922."

* * * * *

"In order that we may take out a new charter and corporation papers, we are compelled to establish some different date that all old contracts will be cancelled and returned to the shippers."

On May 9, 1935, W. R. Ward of Fallstown, Maryland, wrote the Association, refusing to sign the new contract, and saying:

"But I am not leaving the association unless I have to sign the contract, and rather than sign it will have to ship to the Independent Dairy."

To which Mr. Heaps replied on May 13, 1935, in part:

"It is, therefore, for your protection that we have everyone sign on this contract, as it prohibits your neighbor or some other shipper from selling their milk below the basic price, and as you know this price cutting has resulted in the past in you and everyone else taking less for their milk than had there been no price cutting in the market. For instance: Had there been no milk shipped by independent producers when the price of milk went up to 26¢ last August, we would still be receiving 26¢ for our milk."

¹² The Baltimore market was operated under a Federal marketing agreement and license from September 29, 1933 until November 16, 1934.

New Dairy Farmers Refused Admission to Baltimore Fluid Milk Market

Letters from dairy farmers offering to sell milk to Fairfield-Western Maryland Dairy Company have been referred to the Association. For example, on August 29, 1934, Mary M. Bull, Parkton, Maryland, wrote Fairfield-Western Maryland Dairy Company (in part) as follows:

"Are you taking any shippers on in milk? I would like, and will be in a position to start the first of October."

This letter was referred to the Maryland State Dairymen's Association by Fairfield-Western Maryland Dairy Company, and the Association replied to Mrs. Bull on August 31, 1934, in part:

"New shippers are being taken on the market at the present time, but must ship for 3 full delivery periods (3 full months) on Class 3 prices. At the end of that time the market administrator allots them a definite Class 1 and Class 2 quantity, but just what percentage will be used to arrive at these quantities, neither we, nor the administrator know at this time. It all depends on market conditions. The above is provided for in the present Baltimore Milk license issued by the United States. (Dept. of Agriculture, August 1, 1934.)"

Further evidence of the Cooperative Association preventing new dairy farmers from entering the market is illustrated by a letter dated March 24, 1934, from Walter T. Coe of Thurmont, Maryland, to the Maryland State Dairymen's Association in Baltimore advising that he had purchased a 50-acre farm in Creagers-town in 1932 with the expectation of sending milk to the Detour, Maryland plant, operated by Fairfield-Western Maryland Dairy Company, and that he (Mr. Coe) would like to have a basic allocation for producing and selling milk in Baltimore. I. W. Heaps, Manager of the Association, wrote Mr. Coe on March 27, 1934, in part:

"Replying to your very nice letter of the 24th, I wish to say first I sincerely sympathize with you in your desire to begin shipping milk, and yet I am placed in the position of being powerless to help you under the Baltimore Milk Market license issued by the Secretary of Agriculture. The only thing I can suggest is that you buy a herd of cows already producing milk for this market, as the license specifically states that no new shipper can come on the market other than by buying an entire herd from a shipper already given an average, or else by securing a certificate of necessity from the Maryland Dairy Council, and as there is sufficient milk on the market at this time no such certificates are at present being issued."

The letter which follows, dated February 20, 1934, from John W. Cronin to Maryland Dairymen's Association and the reply dated February 21, 1934, from the Secretary-Treasurer of the Association to Mr. Cronin illustrates dissatisfaction among dairy farmers in the Baltimore area.

"The tenant farmer operating my mother's dairy insists that some change must be made so that his receipts for milk be increased. He has suggested buying an average for himself and adding some cows to those he already owns, and handling both averages on the farm. He is advised by your local representative, that this is not possible.

"Before we meet his requirements of finding another market for milk, will you be kind enough to advise if there is any possibility of an increase or change in the arrangement of averages in the immediate future? Apparently, there is something radically wrong with the milk situation in Baltimore. The owner of a local dairy was in Baltimore last week—attempted to buy some cream, and could not find any for sale at the neighborhood dairies. Certainly there can be no surplus of milk in Baltimore. If this condition exists then farmers could not be receiving such ridiculous prices for second and third grade milk." (Ex. 117.)

The reply dated February 21, 1934, reads as follows:

"Replying to your letter of the 20th inst., our representative informed you clearly relative to averages being combined. This cannot be done, should such a practice be put in effect our whole market structure would be endangered.

"At the present time there is no possibility of averages being increased, as we already have more basic milk credited to shippers than we can sell at basic price. Whenever a consumption of milk increases in Baltimore to the extent we can increase averages we assure you we will be only too glad to do so.

"Class 1 milk is all milk sold in fluid form from wholesale, retail, bulk and bottle. Class 2 milk is all milk sold in the form of fluid cream for home consumption and milk sold in fluid form for ice cream purposes. Class 3 milk is that which is used for manufacturing purposes. Orders for cream are placed a

week in advance. For several weeks past, due to unusual weather conditions, our supply has been only enough to meet local manufacturing needs. The price offered, is, of course, always a factor when we have cream for sale. Our purpose is to obtain the best possible price. Under no circumstances could we afford to sell a dealer Class 3 cream to be distributed locally as fluid cream.

"You probably know we have tried very hard to get an increase for both Class 1 and Class 2 milk. A public hearing on this matter was held in Baltimore last fall, but, due to certain changes in the Department of Agriculture, our application for these increases has not yet been granted. We are hoping that some action will be taken in the very near future."

Results of concentration of control of distribution of milk in Baltimore market

It has been said that

"The history of the Baltimore Milk Market is one of peace and quiet as compared with most of the metropolitan markets of the country."

This is due, in part at least, to the fact that the dairy farmers' organization (Maryland Cooperative Milk Producers, Inc.) has, since 1918, controlled a large percentage of milk sales in Baltimore, coupled with the fact that there are comparatively few dealers in Baltimore, the largest of whom have cooperated with the dairy farmers' organization in maintaining its position in the market. Representatives of the dairy farmers' Cooperative have met with representatives of distributors and agreed upon prices to be paid to the Association for the farmers.

Prices paid dairy farmers for milk as well as retail prices to consumers appear to have been stabilized and maintained, in the Baltimore market.¹³

The one substantial increase (November 16, 1936) in prices paid dairy farmers for milk during that period was more than offset by an increase in the retail price to consumers.

There is little competition with respect to retail prices of milk in Baltimore, with the exception of the price cutting activities of "bobtailers" (small dealers with no pasteurizing plants, operating milk routes, purchasing all of their bottled milk—at wholesale prices—from other dealers).

Prices paid by Maryland Cooperative Milk Producers, Inc., to its dairy-farmer members necessarily fluctuated from month to month, due to the variation in the proportions of milk used or sold by distributors in Class I (fluid milk) and II (fluid cream) as well as surplus milk (deliveries in excess of quantities used in Classes I and II). Surplus milk is separated by distributors for Maryland Cooperative Milk Producers, Inc., the cream being either sold for the account of the Association or returned to, and sold by the Association for the benefit of its members.

Fairfield-Western Maryland Dairy Company is alleged to have established the present retail prices of milk in Baltimore. Prior to November 15, 1936, distributors paid to Cooperative Association 23 cents per gallon f. o. b. plants in Baltimore for all the milk they sold as fluid milk used to produce fluid cream.

On or about November 16, 1936, representatives of Maryland Cooperative Milk Producers, Inc., met with representatives of the cooperating distributors, and agreed to increase the price of milk to producers. The new prices effective November 16, 1936, were 27½ cents per gallon for Class I and 19 cents per gallon for Class II milk and represented an average increase for both classes of approximately 2½ cents per gallon. The day following this meeting Fairfield-Western Maryland Dairy Company announced an increase in the retail price of fluid milk from 12 cents to 13 cents per quart, the increase amounting to 1 cent per gallon.

Baltimore City Department of Health

Due to the attitude of the Commissioner of Health of Baltimore City, detailed information with respect to distribution of milk and milk products was not available from the records of the City Health Department. In a letter of November 3, 1938, responding to a request from the Commission dated October 27, 1938, for detailed information, Dr. Huntington Williams, Commissioner of Health, submitted a part of this information but with respect to the rest, said, in part:

"I take pleasure in sending you herewith the memorandum prepared on November 2 by Mr. Ivan M. Marty, Director of the Bureau of Milk Control in the Baltimore City Health Department."

¹³ Exhibit No. VI shows the average monthly prices f. o. b. Baltimore, received by farmers who are members of Maryland Cooperative Milk Producers, Inc.; price paid to the Cooperative Association by distributors; and retail prices to consumer, from January 1936 to June 1938, inclusive.

The memorandum prepared by Mr. Marty contained the following statement: "I have omitted the information requested under paragraphs 4 and 5 since the issuance of such confidential information is a violation of our agreement with the dairy industry."

Under paragraph 4, the Commission requested, among other things, complete list of dealers distributing milk, cream and ice cream with the location of their pasteurizing and manufacturing plants, and under paragraph 5, the names of the five largest distributors with the quantities of fluid milk, cream and ice cream sold by each during the years 1936, 1937, and the first six months of 1938.

During the early part of 1933 an attempt was made to enforce a health regulation prohibiting shipments of milk and cream into Baltimore City unless produced in the area inspected by Baltimore health officials. However, if a situation arose whereby there was not a sufficient amount of milk and cream produced in this area, the Commissioner of Health could certify shipments of milk and cream from outside sources. It was alleged that this regulation, while appearing to be merely a health matter, was so administered by the Health Department that it actually became an economic restraint on producers of milk and cream outside the inspected area. This regulation when attacked in the Federal Court was declared a restraint on interstate commerce in violation of the Federal Constitution. (*Miller v. Williams*, 12 Fed. Supp. 230)

The Health Department maintains free inspection for all shippers located within a 50-mile radius of Baltimore. Any shipper located beyond this boundary may obtain Baltimore inspection by paying the inspection charges. It has been alleged that the department is now levying inspection charges sufficiently large to effectively prevent dairy farmers outside the 50-mile limit from entering the Baltimore market. Due to the limited time available and not having access to the records of the Department, these charges were not investigated.

Milk Bottle Exchange

The Milk Bottle Exchange, Inc., is a non-profit agency serving milk distributors in the Baltimore district. Any Baltimore milk dealer can become a member by paying a nominal fee. The costs of maintaining the Exchange are taken care of by charges for returning reclaimed bottles to dealers. Receipts in excess of expenses are returned to member-dealers through a reduction in the fee for returned bottles. At the time of the inquiry the fee to members was 1½¢ per bottle, and to non-members 2¢ per bottle. It has been estimated that bottle losses in Baltimore City run around \$25,000 per month. This loss is alleged due to the fact that the so-called old bottle exchange does not compensate dealers for turning over to the exchange bottles belonging to competitors, which, it has been claimed, were smashed and sold as "cullet" to a bottle manufacturer for approximately ¼¢ per bottle.

For several years there has been an agitation among dealers for some means by which bottle losses can be reduced. A committee was formed to study the activities of bottle exchanges in other metropolitan cities. This committee recommended as follows:

"Baltimore City needs a milk bottle exchange which will be a strong dealers' organization, which exchange will receive the cooperation of all dealers and pay these dealers for picking up bottles belonging to competing dairies, an Exchange that will crack down on the rackets now being perpetrated by the so-called "bobtailers", such as the stealing of bottles, stealing of milk, stealing of customers, and selling old milk on the market."

As a result of the committee's study a new organization was incorporated in October, 1938, under the name of The Milk Bottlers' Exchange, Inc. The new organization provided, in its by-laws, for a two-cent per bottle charge for returning bottles to dealers and paying ¼¢ per bottle for turning over to the exchange bottles belonging to competitors.

The new organization permits all dealers to become members who (a) pasteurize their fluid milk, (b) bottle it in their own returnable container, (c) distribute not less than 50% of the milk which they bottle, in their own vehicles, and (d) sell at retail not less than 33½ percent of the quantity of milk so distributed.

Interviews with distributors in Baltimore indicate that a majority looked with favor upon the new organization, only a few dealers having expressed opposition. It is interesting to note that dealers opposing are independents (dealers not purchasing their milk from or through Maryland Cooperative Milk Producers, Inc.). Those opposing the new organization claim that it is being set up by the Fairfield-Western Maryland Dairy Company for the purpose of controlling or stifling com-

petition. In this connection it should be noted that the certificate of incorporation provides that:

"Every member of the Corporation shall be entitled to one vote, in addition to which any member whose sales of fluid milk distributed in his own vehicles have averaged in excess of 500 gallons but not in excess of 1,000 gallons per day, shall be entitled to one vote, and any member whose said sales shall have averaged in excess of 1,000 gallons per day shall be entitled to one additional vote for each 750 such daily gallons or fraction thereof in excess of such 1,000 gallons per day; provided, however, that at not time shall the aggregate number of votes to which any member would be so entitled exceed a number which is one-third of all the votes to which the members are entitled."

THE ICE CREAM BUSINESS IN BALTIMORE CITY

The Baltimore City health regulations require every manufacturer of ice cream to pasteurize all cream used in the manufacture of ice cream, on the premises. This regulation has resulted in excluding many small manufacturers, and has practically eliminated the "counter freezer".

The following tabular statement shows the estimated wholesale values of the five largest ice cream manufacturers and their percentages of the total business of Baltimore:

| Company | Wholesale Value 1937 | Percent |
|---|----------------------|---------|
| The Borden Company: (Hendler Ice Cr. Co.)..... | \$1,100,000 | 58.00 |
| (Bordens Ice Cr. Co.)..... | 600,000 | |
| | 1,700,000 | |
| Arundel Ice Cream Co. (Retail in its own stores)..... | 884,000 | 19.76 |
| Beatrice Creamery Co..... | 600,000 | 13.41 |
| Jersey Ice Cr. Co..... | 225,000 | 5.03 |
| Eckles Ice Cream Co..... | 192,000 | 4.29 |
| Bettar Ice Cream Co..... | | |
| Total (5 companies)..... | 3,601,000 | 80.49 |
| All others (estimated)..... | 872,684 | 19.51 |
| Total..... | 4,473,684 | 100.00 |

The two Borden subsidiaries sold 38 per cent of the total wholesale value of manufactured ice cream sold in Baltimore during 1937. In addition to this, Borden's Ice Cream Company manufactured, in its Baltimore plant, ice cream for distribution in York and Harrisburg, Pa., and Westminster, Maryland, the wholesale value of which was estimated \$400,000 during 1937. The second largest manufacturer in Baltimore was the Arundel Ice Cream Company. The five largest companies manufactured approximately 81 per cent of the total.

Agreement Fixing Prices of Cream Sold by Maryland Cooperative Milk Producers, Inc., to Ice Cream Manufacturers

Early in September, 1938, Mr. I. W. Heaps, Manager of Maryland Cooperative Milk Producers, Inc., began working on a plan whereby the Cooperative Association might sell to the Baltimore City Ice Cream manufacturers a greater quantity of cream. Prior to that time ice cream manufacturers were purchasing cream from outside sources at less than the Association's prices of \$14 per 10-gallon can of 40% butterfat cream, while the Association was selling large quantities of surplus cream to local butter manufacturers at still lower prices.

On October 28, 1938, a meeting of officials of Maryland Cooperative Milk Producers, Inc., with representatives of ice cream manufacturers was held in the Association's offices. The following persons were present:

Nathan Lebowitz, Vice Pres., Hendler Ice Cream Company, also representing Borden's Ice Cream Company (both subsidiaries of The Borden Co.)

Jacob Abrams, President and manager of Jersey Ice Cream Corp. (owned by Beatrice Creamery Co. of Chicago.)

Louis A. Carliner, President of Bettar Ice Cream Co.

George A. Fisher, President of Arundel Ice Cream Co.

Stanley Staples, Manager, Eckles Ice Cream Co.

Mr. Brimer; and Mr. Scarborough, Owners of small catering businesses which manufacture ice cream.

Dr. W. R. Shermantine, Wesley A. Pickens, Mr. Twining, Representing Maryland Cooperative Milk Producers, Inc.

At this meeting the ice cream manufacturers agreed to purchase a larger percentage of their cream requirements from the Cooperative Association if that organization would agree to sell at a price which would be competitive with prices charged for imported cream. This was agreed to by the representatives of the association. In order to arrive at the so-called competitive price, the manufacturers computed an average of their respective prices being paid for cream, making a general average of \$11.8833 per 10-gallon can of 40% cream. At the request of the representatives of the Association, 25 cents per can was added to the average, resulting in the amount of \$12.1333. The manufacturers, wishing an even figure, suggested that the Cooperative price be declared \$12.15 per can. All parties agreed to this figure.

After this so-called competitive price had been reached, all manufacturers at the conference, except Mr. Scarborough, agreed to purchase cream from the Cooperative Association at \$12.15 per 10-gallon can of 40% cream for the entire month of November, and to meet again each 30 days to establish a price to be effective for each succeeding month.

BOSTON MILK MARKET

The distribution and handling of milk in the Boston Market is under the direction of a market administrator operating pursuant to an order of the Secretary of Agriculture issued under authority of the Agricultural Marketing Agreement Act of 1937. The Boston market receives its milk requirements from dairy farmers in Massachusetts, Vermont, New Hampshire and Maine. Approximately 60% of Boston's requirement of milk comes from Vermont; only 14% from Massachusetts, the remainder from New Hampshire and Maine.

The following tabulation shows the percentage of the estimated total fluid milk sold daily in the Boston market by each of the four largest distributors during 1936 and 1937:

| Company | 1936 Daily Average | | 1937 Daily Average | |
|---|--------------------|---------|--------------------|---------|
| | Quart | Percent | Quart | Percent |
| H. P. Hood & Sons, Inc..... | 88,000 | 29.61 | 85,700 | 29.95 |
| Whiting Milk Co. controlled by National Dairy Products Corp. United Farmers Coop..... | 58,454 | 19.67 | 54,657 | 19.10 |
| Creamery Assn. Inc..... | 25,000 | 8.41 | 20,000 | 6.99 |
| Berlihy Bros. Inc..... | 18,000 | 6.06 | 19,000 | 6.64 |
| Total (4 companies)..... | 189,454 | 63.75 | 179,357 | 62.68 |
| All other companies 85 (balancing figure)..... | 107,708 | 36.25 | 106,764 | 37.32 |
| Total..... | 297,162 | 100.00 | 286,121 | 100.00 |

Two large milk distributors, H. P. Hood & Sons, Inc., and Whiting Milk Co., handle almost 50 percent of the estimated fluid milk sold in the Boston market. It is understood that H. P. Hood & Sons, Inc., is an independent distributor, having no connection with either of the nation-wide distributors. National Dairy Products Corporation has purchased the ice cream business of the Whiting Milk Company which was transferred to and is now operated by a new subsidiary of National Dairy Products Corporation, under the name of Bushway-Whiting Ice Cream Company.

National Dairy Products Corporation has an option to purchase the entire business of the Whiting Milk Company and its subsidiary and affiliated companies. The option which has not been exercised, expires October 31, 1941. Meantime, National Dairy Products Corporation is a party to a voting trust agreement under which all of the capital stock of Whiting Milk Company has been deposited with "Voting Trustees", vesting in the trustees the right to vote the entire capital stock of Whiting Milk Company for the purpose of enabling National Dairy Products Corporation to supervise and manage the affairs of the Whiting Company and "to control its business policies in the interest of National as a creditor and as holder of the option to acquire the assets of" the Whiting Milk Company. The trustees under the voting Trust agreement are Vernon F.

Hovey, C. W. Larson and L. A. Stickler. Messrs. Hovey and Stickler were vice-president and treasurer, respectively, of National Dairy Products Corporation. The Board of Directors of Whiting Milk Company are elected by the voting trustees. At present (February 14, 1939) nine of the fourteen members of the Board are "Associated with National Dairy Products Corporation or its subsidiaries." All of the officers of Whiting Milk Company are also "associated with National Dairy Products Corp., or its subsidiaries."¹⁴

HARTFORD CONNECTICUT MILK MARKET

Distribution of milk in Hartford is administered by the State of Connecticut under its Milk Control laws. National Dairy Products Corporation owns two subsidiaries (Bryant & Chapman Co., and R. G. Miller & Sons, Inc.) The following tabular statement shows the total quantity of fluid milk distributed by these two subsidiaries compared to the total fluid Grade B milk distributed in Hartford City (not including suburbs) during 1936 and 1937.

| Company | 1936 | | 1937 | |
|-------------------------------|------------|----------|------------|----------|
| | Quart | Per-cent | Quart | Per-cent |
| Bryant & Chapman Co..... | 3,399,712 | | 3,255,310 | |
| R. G. Miller & Sons, Inc..... | 1,807,299 | | 1,792,529 | |
| Total..... | 5,207,011 | 30.2 | 5,077,839 | 28.8 |
| Total all companies..... | 17,257,846 | | 17,603,936 | |

The above figures indicate that National Dairy subsidiaries distributed approximately 30% of the total fluid milk consumed in Hartford during 1936 and almost 29% in 1937.

NEW YORK MILK MARKET

The distribution of milk in New York City (prior to February 22, 1939) was under the direction of a market administrator operating jointly pursuant to a Federal order¹⁵ issued by the Secretary of Agriculture under authority of the Agricultural Marketing Agreement Act of 1937, and a State order¹⁵ issued by the Commissioner of Agriculture and Markets under authority of the New York State laws, covering the handling of milk and cream in the "New York Metropolitan Milk Marketing Area" as defined by the said orders. The following tabular statement shows the estimated average daily distribution of milk by the six largest dealers together with the percentage of the total distributed by each in 1937 and during the three months of 1938.

¹⁴ Letter from National Dairy Products Corp. to Federal Trade Commission February 14, 1939.

¹⁵ On February 22, 1939, Justice Francis Bergan of the New York Supreme Court handed down a decision declaring the New York official order #126 invalid. (H. B. Noyes, Commissioner of Agriculture and Markets, State of New York vs. Erie & Wyoming Farmers Cooperative Corporation, et al.) On February 23, 1939, Justice Frank Cooper, United States District Judge for the North District of New York handed down a decision declaring Federal Order #27 invalid. (United States—Holton V. Noyes, Commissioner of Agriculture and Markets, intervening—vs. Rock Royal Cooperative, Inc., et al.) Following these decisions, an effort was made by the dairy farmers through Metropolitan Cooperative Milk Producers Bargaining Agency, Inc., to keep the program embodied in Federal Order No. 27 and State Official No. 126 operating pending the appeal of the decisions, through contracts with distributors representing 90% of the milk priced according to Federal Order #27. The Agreements were deposited with the Commissioner of Agriculture and Markets to become effective March 14, 1939, if 90% of the milk had been covered under the agreement on that date. On March 14, 1939, the Commissioner announced that the requisite proportion of the milk had not been covered by contracts, and Federal Order #27 was suspended pending the outcome of an appeal to the Supreme Court of the United States from Judge Cooper's decision. The Supreme Court of the United States handed down a decision on June 5, 1939 (U. S. vs. Rock Royal Cooperative, Inc., et al., 59 Supreme Court, 933), reversing Judge Frank Cooper's opinion and upholding the constitutionality of the Agricultural Marketing Agreement Act of 1937, and the validity of Order No. 27 issued thereunder by the Secretary of Agriculture. A similar opinion was rendered by the Court of Appeals of New York State on July 11, 1939, setting aside the decision of Justice Francis Bergan of the New York State Supreme Court (H. B. Noyes, Commissioner of Agriculture and Markets, State of New York vs. Erie & Wyoming Farmers Cooperative Corporation, et al.), and upholding the constitutionality of the so-called Rogers Allen law and the legality of New York Official Order No. 126 issued thereunder. Following these decisions, U. S. Order #27 and New York State Official Order #126 were reinstated, effective July 1, 1939.

Milk—Average Daily

| | 1937 | | 1938 (3 Mos.) | |
|--|------------------|--------------|------------------|--------------|
| | Quart | Percent | Quart | Percent |
| The Borden Company..... | 608,966 | | 639,321 | |
| Dairy Sealed Inc..... | 148,225 | | 131,323 | |
| Total Borden..... | 757,191 | 23.8 | 770,644 | 25.7 |
| Sheffield Farms Co., Inc..... | 652,538 | | 622,891 | |
| Muller Dairies, Inc..... | 99,039 | | 100,053 | |
| Total National Dairy Prod. Corp..... | 751,577 | 23.6 | 722,944 | 24.1 |
| National Dairies and Borden combined..... | 1,508,768 | 47.4 | 1,493,588 | 49.8 |
| Dairymen's League..... | 141,004 | 4.4 | 155,323 | 5.2 |
| M. H. Renken Dairy..... | 78,054 | 2.5 | 67,030 | 2.3 |
| Four Distributors..... | 1,727,826 | 54.3 | 1,715,941 | 57.3 |
| All other Distributors (Balancing Figure)..... | 1,452,705 | 45.7 | 1,280,813 | 42.7 |
| Total All Distributors..... | 3,180,531 | 100.0 | 2,996,754 | 100.0 |

The records of the Department of Health for New York City show that the four largest dealers, controlled the distribution of 54.3 percent of the fluid milk sold in New York City during 1937, and 57.3 percent during the first three months of 1938.

The Borden Company, the largest distributor of fluid milk in New York City, handled 23.8% of the total in 1937 and 25.7% during the first three months of 1938. Combining the subsidiaries (Sheffield Farms Co. Inc., and Muller Dairies, Inc.) of the National Dairy Products Corp. shows it to be a close second, with 23.6% of the total for 1937 and, 24.1% during the first three months of 1938. The two large distributors (National Dairy Products Corp., and The Borden Company) handle almost 50% of the milk sold for consumption in fluid form in New York City. Both companies have their general offices in New York City and are very active in the distribution of all dairy products in the New York Metropolitan Marketing Area.

PHILADELPHIA PENNSYLVANIA MILK MARKET

There are 33 distributors operating 37 pasteurizing plants in the city limits and 28 distributors operating 28 pasteurizing plants outside the city limits distributing milk and cream in Philadelphia. The following tabular statement shows the quantities and percentages of the estimated total milk, sold daily in Philadelphia, distributed by each of the five largest dealers during 1936 and 1937.

| | 1936 Quarts per Day | | 1937 Quarts per Day | |
|---|---------------------|---------------|---------------------|---------------|
| | Milk | Percent | Milk | Percent |
| Supplee-Wills-Jones Milk Co. (a subsidiary of National Dairy Products Corp.)..... | 177,450 | 25.50 | 167,000 | 24.18 |
| Abbotts Dairy, Inc..... | 147,872 | 21.25 | 149,828 | 21.70 |
| Harbison Dairy..... | 72,000 | 10.34 | 78,450 | 11.36 |
| Sylvan Seal..... | 48,000 | 6.90 | 40,922 | 5.92 |
| Scott-Powell Dairies..... | 53,288 | 7.66 | 49,072 | 7.11 |
| Total (5 companies)..... | 498,610 | 71.65 | 485,272 | 70.27 |
| All other companies, 54 (Balancing Figure)..... | 197,252 | 28.35 | 205,292 | 29.73 |
| Total (59 companies)..... | 695,862 | 100.00 | 690,564 | 100.00 |

The five largest companies distributed 71.65% of the fluid milk in 1936 and 70.27% in 1937. Supplee-Wills-Jones Milk Co., a subsidiary of National Dairy Products Corporation, was the largest distributor and handled approximately one-fourth of the fluid milk sold in Philadelphia in 1936 and 1937.

YOUNGSTOWN, OHIO, MILK MARKET

According to report of the Chief Milk Inspector, there were approximately 4,543,189 gallons of fluid milk consumed in Youngstown, Ohio, during 1937. The five largest distributors and the percentage of the total sold by each during 1937 and the first six months of 1938 are as follows:

| Company | 1937 | | 1938 (6 Mos.) | |
|--|-------------|---------|---------------|---------|
| | Gallons | Percent | Gallons | Percent |
| Islay Dairy Co..... | 1, 112, 553 | 24. 5 | 525, 211 | 28. 1 |
| Youngstown Sanitary Milk Co., (a subsidiary of National Dairy Products Corp.)..... | 1, 040, 670 | 22. 9 | 490, 308 | 26. 3 |
| Clover Leaf Dairy Co..... | 91, 250 | 2. 0 | 39, 820 | 2. 1 |
| The Smith Dairy Co..... | 182, 500 | 4. 0 | 18, 245 | 1. 0 |
| Tech Food Prod. Co..... | 160, 965 | 3. 6 | 75, 555 | 4. 0 |
| Total (5 companies)..... | 2, 587, 938 | 57. 0 | 1, 149, 139 | 61. 5 |
| All other dealers..... | 1, 955, 251 | 43. 0 | 719, 095 | 38. 5 |
| Total consumed..... | 4, 543, 189 | 100. 0 | 1, 868, 234 | 100. 0 |

Islay Dairy Company was the largest dealer and distributed 24.5 percent of the total during 1937 and 28.1 percent the first six months of 1938. Youngstown Sanitary Milk Company, a subsidiary of National Dairy Products Corp., distributed 22.9 percent of the total during 1937 and 26.3 percent during the first six months of 1938. These two dealers distributed 47.4 percent of the total in 1937 and 54.4 percent in 1938. The five largest dealers in Youngstown, including the Islay Dairy Co., and Youngstown Sanitary Milk Co., distributed 57 percent of the total in 1937, and 61.5 percent during the first six months of 1938.

MILWAUKEE, WISCONSIN, MILK MARKET

Fifteen dealers operating 793 retail milk wagon routes and 95 wholesale routes, distribute fluid milk and fluid cream in Milwaukee, Wisconsin. The following tabulation shows the five largest distributors with their respective percentages of the total distribution of fluid milk in the Milwaukee market for the years 1936 and 1937:

| Company | 1936 | | 1937 | |
|--|---------------|---------|---------------|---------|
| | Pounds | Percent | Pounds | Percent |
| Gridley Dairy Co. (subsidiary of The Borden Co.)..... | 51, 608, 650 | 31. 59 | 58, 814, 645 | 36. 57 |
| Luick Dairy Co. (subsidiary of National Dairy Products Corp.)..... | 35, 856, 381 | 21. 95 | 36, 388, 540 | 22. 63 |
| Golden Guernsey Dairy Corp..... | 18, 994, 274 | 11. 63 | 19, 531, 692 | 12. 15 |
| Dairy Distributors Inc..... | 12, 554, 913 | 7. 68 | 12, 450, 032 | 7. 74 |
| Gehl's Guernsey Farms..... | 8, 098, 510 | 4. 96 | 8, 832, 213 | 5. 49 |
| Total (5)..... | 127, 112, 728 | 77. 81 | 136, 017, 122 | 84. 58 |
| All other companies (10) (Balancing Figures)..... | 36, 260, 746 | 22. 19 | 24, 801, 136 | 15. 42 |
| Total..... | 163, 373, 474 | 100. 00 | 160, 818, 258 | 100. 00 |

The Gridley Dairy Company, a subsidiary of The Borden Company, operating 255 of the 793 retail milk delivery routes and 25 of the 95 wholesale routes in Milwaukee, is the largest dealer, having distributed about 31½ percent of the estimated total fluid milk sold in Milwaukee during 1936 and 36½ percent during 1937.

The Luick Dairy Company, a subsidiary of National Dairy Products Corporation, operating 178 retail routes and 16 of the wholesale routes, is the second largest dealer in Milwaukee, having distributed approximately 22 percent of the total in 1936 and 22½ percent in 1937. The two large distributors combined have approximately 53 percent of the total fluid milk business in Milwaukee during 1936, and 59 percent in 1937.

LOUISVILLE, KENTUCKY, MILK MARKET

There are 39 distributors operating 278 retail and 36 wholesale milk wagon routes distributing milk in the Louisville market. The five largest dealers with the quantity and percent of the estimated total Louisville consumption distributed by each are shown in the following tabular statement:

| Company | 1936 | | 1937 | |
|---|-----------|----------|-----------|----------|
| | Gallons | Per-cent | Gallons | Per-cent |
| Ewing-Von Allmen Dairy Co. (Subsidiary of National Dairy Products Corp.)..... | 2,932,500 | 29.3 | 2,997,000 | 30.1 |
| Kentucky Dairies..... | 916,200 | 9.2 | 977,250 | 9.8 |
| Model Farms Dairy..... | 698,490 | 7.0 | 645,900 | 6.5 |
| Cherokee Milk Co..... | 540,150 | 5.4 | 533,400 | 5.4 |
| Oscar Ewing & Sons..... | 519,480 | 5.2 | 579,600 | 5.8 |
| | 5,606,820 | 56.1 | 5,733,150 | 57.6 |
| All other companies (Balancing Figure)..... | 4,392,307 | 43.9 | 4,222,585 | 42.4 |
| Total Consumption..... | 9,999,127 | 100.0 | 9,955,735 | 100.0 |

Ewing-Von Allmen Dairy Co., operating 80 routes, handled 29.3 percent of the total in 1936, and 30.1 percent in 1937. The five largest companies including the National Dairy subsidiary, operating 152 of the 278 retail and 21 of the 36 wholesale routes, distributed 56.1 percent of the total in 1936, and 57.6 percent in 1937.

SAN FRANCISCO MILK MARKET

There are 18 distributors operating pasteurizing plants and distributing fluid milk in San Francisco. They operate 134 wholesale and 254 retail delivery routes. The five largest distributors with the quantities and the percentages of the estimated total San Francisco consumption of fluid milk distributed by each during 1937 and the first six months of 1938, are shown in the following tabulation:

| Company | 1937 | | 1938 (6 mos.) | |
|---------------------------------|------------|----------|---------------|----------|
| | Gallons | Per-cent | Gallons | Per-cent |
| Borden's Dairy Delivery Co..... | 4,779,649 | 28.88 | 2,306,617 | 28.33 |
| Marin Dairymen's Milk Co..... | 4,077,421 | 24.64 | 2,018,153 | 24.78 |
| Golden States Co. Ltd..... | 1,241,607 | 7.50 | 663,191 | 8.14 |
| Spreckles Russell Dairy Co..... | 985,850 | 5.96 | 488,658 | 6.00 |
| Bell Brook Dairies Inc..... | 939,446 | 5.68 | 476,301 | 5.85 |
| Total (5 companies)..... | 12,023,973 | 72.66 | 5,952,920 | 73.10 |
| Other companies (13)..... | 4,523,632 | 27.34 | 2,190,604 | 26.90 |
| Total consumption..... | 16,547,605 | 100.00 | 8,143,524 | 100.00 |

The Borden Company is the largest and distributed 28.88 percent of the total fluid milk sold in San Francisco during 1937 and 28.33 during the first six months of 1938. Marin Dairymen's Milk Company was the second largest, having sold 24.64 percent of the total in 1937 and 24.78 percent during the first six months of 1938. These two companies handled more than 53½ percent of the total in 1937 and 53 percent during the first six months of 1938. Approximately 73 percent of the fluid milk consumed in San Francisco is handled by 5 companies.

PRICES PAID FARMERS AND CHARGED CONSUMERS

Exhibit No. VII shows average delivered prices per quart paid by distributors for Class 1 milk sold in fluid form, and retail prices per quart of regular grade pasteurized milk delivered to the consumer's door in twelve cities, from 1919 to

1937 inclusive, and from January to October, 1938, inclusive. Prices in these cities effective during October, 1938, were as follows:

| City | Prices paid dairy farmers by distribu- tor f. o. b. city plant for Class 1 milk | Prices charged consumer delivered in bottles |
|-----------------------|--|--|
| | Cents per quart | Cents per quart |
| Boston..... | 6.88 | 13.00 |
| Philadelphia..... | 5.98 | 12.00 |
| Baltimore..... | 6.13 | 13.00 |
| Washington, D. C..... | 6.77 | 14.00 |
| Pittsburgh..... | 6.15 | 13.00 |
| Detroit..... | 4.09 | 10.50 |
| Milwaukee..... | 5.83 | 12.00 |
| Louisville..... | 5.81 (Apr.) | 13.00 |
| Kansas City..... | 4.97 | 13.00 |
| Dallas..... | 4.25 | 11.00 |
| Los Angeles..... | 4.36 (Sept.) | 11.00 |
| San Francisco..... | 5.45 | 13.00 |

The above prices do not represent actual prices received by dairy farmers for even Class 1 milk since they include cost of transporting milk from the farms to city plants, and only represent prices paid for that part of the milk sold by distributors in fluid form. Farmers received very much lower prices for milk delivered to distributors in excess of the quantity sold as fluid milk.

Methods of Arriving at Prices Paid Dairy Farmers

Distributors and dealers usually purchase the entire output of the individual dairy farmers supplying them with milk, and in order to be assured of a continuous supply throughout the year, must purchase the milk produced by a sufficient number of farmers to insure an adequate supply during the period of low production (usually the months of October, November and December). The result of this practice is that during the flush production seasons (April, May and June) distributors usually have more milk than can be sold for consumption in fluid form. This excess milk is referred to as "surplus" and must be converted into other products which (distributors claim) are sold at a lower return than fluid milk or fluid cream. It has been the practice of distributors to purchase milk of as few farmers as will assure them of an adequate supply the year around. On the other hand, dairy farmers have endeavored to find a steady outlet for their milk and at the same time produce as much as possible.

The continued struggle between producers and distributors, with regard to prices for milk, led dairy farmers producing milk (meeting health requirements) for the fluid market to organize cooperative groups to market their milk collectively. The problem of finding a market for all members of the group and at the same time guaranteeing each member a market for his entire output, led to a serious question concerning the disposition of so-called surplus milk produced under sanitary regulations to meet the requirements of the fluid milk market.

In some large markets prices paid dairy farmers for their milk are based on the use made of it by the purchasing distributor or dealer who knows before the price is determined how he is to use the milk as well as what he may expect to receive for products ultimately obtained and sold therefrom.

The greatest return per unit to dairy farmers for their milk is received for that milk which the dealer sells for fluid consumption. The second largest return per unit is for that milk which the dealer separates and sells the cream therefrom for consumption in fluid form. So naturally dairy farmers producing milk for the fluid milk market have endeavored to sell as large a proportion of their milk for fluid milk sales as possible.

Base and Surplus Plan

The above described conditions led to an effort on the part of organized groups of dairy farmers to allocate to each member a definite portion of the fluid milk business. This practice led to the establishment of the so-called base-surplus plan of marketing milk. This plan was aptly described by I. W. Heaps, Secretary of the Maryland Cooperative Milk Producers, Inc., Baltimore, Maryland, in a

letter to A. H. Lauterbach, General Manager of Interstate Milk Producers Co-operative, Inc., Philadelphia, Pa., dated July 16, 1937, which reads in part as follows:

"In 1918 our shippers were given a base allocation on the basis of an average monthly deliveries during October, November and December of each year up until 1924. In the fall months of 1923, their production was far in excess of our fluid milk sales. Therefore, in 1924, we gave to each shipper a base equal to his average monthly production during October, November and December of 1921, 1922 and 1923. This is the basis we have operated on ever since, adjusting basic averages from that point. In other words, as production increased, the shippers' allocations were increased to the percent that the market consumed * * *. All milk over and above the amount sold as Class 1 milk is Class 2 milk. Class 2 milk is all milk used for fluid cream purposes, and the excess over and above Class 2 is used for manufacturing purposes. The price of Class 2 milk varies each month in accordance with the amount of excess milk sold for manufacturing purposes. For instance, when there is little or no cream sold for manufacturing purposes, Class 2 milk represents fluid cream sold by the distributors. The Class 2 price each month is arrived at by average price received for the manufactured cream and cream used for fluid purposes."

Base-surplus plans, much the same as that adopted in the Baltimore milk shed, were adopted in other large milk sheds throughout the country. In each instance the bases given producers were determined by their shipments during the low production months and in each instance the highest price was paid producers for their base milk or a percentage of their base milk, corresponding to the percentage of the total production by the group sold as fluid milk. In most instances where the base and surplus plan was adopted, producers received only two prices for their milk, one price for the base milk and the other for surplus milk, which was much lower than the base price.

Classified Use Plan

The fact that distributors were required to take the entire output of the producers, coupled with the fact that often only a percentage of that quantity could be sold as fluid milk, the remainder having to be converted into products of less value, led to the adoption of classes of milk according to use for the purpose of determining prices to be paid producers. The number and designation of classes of milk for pricing purposes varies in the different milk markets. However, Class 1 is uniformly applied to milk sold for consumption in fluid form and Class 2 to milk sold for use in the production of cream to be consumed in fluid form. Other classes include the use of milk in the production of ice cream, butter, cheese, condensed milk, powdered milk, and other products. In some markets there are only 3 classes, 1, 2 and 3, respectively, denoting fluid milk, fluid cream and milk for manufacturing purposes. In the New York metropolitan milk marketing area, now under the direction of a market administrator, operating under joint Federal and State authority pursuant to Federal Order No. 27 issued by the Secretary of Agriculture under authority of the Agricultural Marketing Agreement Act of 1937, and New York Official Order No. 126 issued by the Commissioner of Agriculture and Markets under authority of the New York State laws, farmers were paid for milk according to nine classifications, each class taking a different price per 100 pounds.

Under the New York plan, the several classes of milk were defined as follows:

"Class I milk is defined as milk which leaves the plant as whole milk, chocolate milk, or a whole milk drink, or any milk not so accounted for as to be placed in a lower class than class I.

"Class II-A milk is all milk the butterfat from which leaves the plant as cream which was not subsequently used or sold as frozen cream made into ice cream, or shipped to markets in any county where there is no New York approved plant.

"Class II-B milk is that milk which furnishes butterfat for plain condensed milk and homogenized mixtures (for ice cream).

"Class III-A milk is all milk which supplies butterfat in evaporated milk, sweetened condensed milk, milk chocolate, milk powder, malted milk powder, or any cheese other than cream cheese and American Cheddar cheese.

"Class III-B milk is milk which supplies butterfat in frozen cream.

"Class III-C milk is milk furnishing butterfat for frozen desserts sold outside of New York City.

"Class III-D milk is milk furnishing the butterfat for cream sold outside the New York milk shed and the butterfat in cream cheese.

"Class IV-A milk is milk which is manufactured into butter.

"Class IV-B milk is milk which is manufactured into American cheese.

"These classes, together with the price applicable to each class, are designed to permit all producers' milk to be absorbed in some channel of use at all times in order that it may be available when needed for Class I and Class II-A uses in the market."

In an announcement dated September 5, 1939 by the Market Administrator, prices were named:

"Pursuant to Sec. 5 of Art. II, I am announcing the minimum prices and butterfat differentials in effect for the month of August, 1939, according to Article IV for 3.5% milk by classes received by handlers from producers at plants in the 201-210 mile zone:

| Class | Price Per Cwt. | Per Point Butterfat Differential | Class | Price Per Cwt. | Per Point Butterfat Differential |
|------------|----------------|----------------------------------|------------|----------------|----------------------------------|
| I..... | \$2.25 | \$0.04 | III-C..... | \$0.951 | \$0.04 |
| II-A..... | 1.55 | .04 | III-D..... | .926 | .04 |
| II-B..... | 1.381 | .04 | IV-A..... | .851 | .024 |
| III-A..... | 1.281 | .037 | IV-B..... | .988 | .024" |
| III-B..... | 1.051 | .04 | | | |

The above prices together with the quantity of milk sold or used in each Class were used to compute an average or blended price to be paid all dairy farmers in the New York metropolitan Milk Marketing Area for the total quantity of milk delivered during the month of August, 1939. On September 14, 1939, the market Administrator issued a release announcing a "Uniform price of \$1.89 per hundred-weight for milk testing 3.5 percent butterfat received from producers during the month of August at handlers plants in the 201-210 mile zone from New York City." The uniform price was subject to adjustment for butterfat differentials and for freight differentials if delivered to plants outside the 201-210 mile zone.

Under this method of determining prices, the dairy farmer did not know what he was to receive for his milk until after it had been delivered and used by the purchaser. Obviously the distributor was taking no chances since he was assured of selling the milk and the products therefrom at consumer prices before the price to be paid producers was determined.

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|--|-------------|---|---|
| | Date | Type | |
| 1. Hydrox Corporation, Chicago, Ill. (Acquired by N. D. P. Corporation). | 12/8/23 | Stock..... | Ice Cream and Beverages. |
| 2. Hydrox Co. of Ind., Hammond, Ind. (Acquired by N. D. P. Corporation). | 12/8/23 | Stock..... | Ice Cream and Beverages. |
| 3. Sheevers Ice Cream Co., Inc., Long Island City, N. Y. (Acquired by N. D. P. Corporation). | 12/8/23 | Assets, transferred to Hydrox Ice Cream Co. & later to Edw. E. Rieck, Inc. (a new company). | Ice Cream and Beverages. |
| 4. Rieck-McJunkin Dairy Co., Pittsburgh, Pa. (Acquired by N. D. P. Corp.). | 1/12/24 | Stock..... | Milk, Cream, Ice Cream and other milk products. |
| 5. Pittsburgh Ice Cream Co., Pittsburgh, Pa. (Acquired by N. D. P. Corp.). | 1/12/24 | Stock..... | Ice Cream. |
| 6. Rieck Certified Dairy Farm Co., Rootstown, Ohio (Acquired by N. D. P. Corp.). | 1/12/24 | Stock..... | Milk. |
| 7. Ohio Milk Sugar Co., Farmdale, Ohio (Acquired by N. D. P. Corp.). | 1/12/24 | Stock..... | Casein, Milk, Sugar and Albumen. |
| 8. The J. T. Castles Ice Cream Company, Irvington, N. J. (Acquired by N. D. P. Corp.). | 5/14/24 | Stock..... | Ice Cream. |
| 9. Castles Ice Cr. Co. of Perth Amboy, Perth Amboy, N. J. (Acquired by N. D. P. Corp.). | 5/14/24 | Stock..... | Ice Cream. |

EXHIBIT I.—List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|--|--|
| | Date | Type | |
| 10. The W. E. Hoffman Co., Altoona, Pa. (Acquired by Rieck-McJunkin Dairy Co.). | 6/1/24 | Stock..... | Ice Cream, Milk, Cream, Butter and other milk products. Ice Cream. |
| 11. Durkin Ice Cream Co., Waukegan, Ill. (acquired by Hydrox Corp.). | 9/1/24 | Assets dissolved 1925, assets merged with Hydrox Corp. | |
| 12. Mocre Brothers Co., Oil City, Pa. (Acquired by Rieck-McJunkin Dairy Co.). | 11/20/24 | Stock..... | Milk, cream, Ice cream, butter, cheese. Ice Cream. |
| 13. Chapell Ice Cream Co., Inc., Chicago, Ill. (Acquired by N. D. P. Corp.). | 1/8/25 | Stock..... | Ice Cream. |
| 14. Thompson Ice Cream Co. Inc., Chicago, Ill. (Acquired by N. D. P. Corp.). | 1/8/25 | Stock..... | Ice Cream. |
| 15. William Olhaver Co., Aurora, Ill. (Acquired by Hydrox Corp.). | 1/15/25 | Assets—Company dissolved. Assets merged with Hydrox Corp. | Ice Cream. |
| 16. C. E. Clark, Indiana, Pa. (Acquired by The W. E. Hoffman Co.) | 2/2/25 | Assets merged with W. E. Hoffman Co. | Ice Cream. |
| 17. Bridgeman-Russell Co. Inc., Long Island City, N.Y. (Acquired by N. D. P. Corp.) | 3/2/25 | Certain assets only transferred to Hydrox Ice Cream Co. Inc. | Ice Cream. |
| 18. Clover Farm Dairy Co., Memphis, Tenn. (Acquired by N. D. P. Corp.). | 4/30/25 | Stock..... | Milk, Cream, Ice Cream and other milk products. Ice Cream. |
| 19. Lily Ice Cream Co., Memphis, Tenn. (Acquired by N. D. P. Corp.). | 4/30/25 | Stock..... | Ice Cream. |
| 20. Erie County Milk Assn., Erie, Pa. (Acquired by Rieck-McJunkin Dairy Co.). | 5/16/25 | Stock..... | Milk, Cream, Ice Cream and other milk products. Ice Cream. |
| 21. Allen Ice Cream Co., Rockford, Ill. (Acquired by Hydrox Corp.). | 5/29/25 | Stock..... | |
| 22. American Ice Cream & Baking Co. (Acquired by Hydrox Corp.). | 6/1/25 | Assets—Company dissolved. Assets merged with Hydrox Corp.). | Ice Cream. |
| 23. Louis Mogolia, Morristown, N. J. (Acquired by The J. T. Castles Ice Cr. Co.). | 6/13/25 | Assets merged with Castles Ice Cream Co. | Ice Cream. |
| 24. Humphries-Philadelphia Ice Cream Co., Brooklyn, N. Y. (Acquired by Edw. E. Rieck Co. Inc.). | 8/1/25 | Assets merged with Edw. E. Rieck. | Ice Cream. |
| 25. Carpenter Ice Cream Co., St. Louis, Mo. (Acquired by N. D. P. Corporation.). | 8/11/25 | Stock..... | Ice Cream. |
| 26. Lake City Ice Cream Co., Jamestown, N. Y. (Acquired by Erie County Milk Assn.). | 8/17/25 | Stock..... | Ice Cream. |
| 27. Lavant Ice Cream Co. Jamestown, N. Y. (Acquired by Lake City Ice Cr. Co.). | 8/31/25 | Assets merged with Erie County Milk Assn. | Ice Cream. |
| 28. Jamestown Ice Cream Co. Inc. Jamestown N. Y. (Acquired by N. D. P. Corp.). | 9/2/25 | Stock..... | Ice Cream and other milk products. |
| 29. Nashville Pure Milk Co. Nashville, Tenn. (Acquired by N. D. P. Corp.). | 9/29/25 | Stock..... | Milk, Cream, Butter and other milk products. Ice Cream. |
| 30. Albert Bonomo Brooklyn, N. Y. (Acquired by Edw. E. Rieck Co. Inc.). | 9/30/25 | Assets merged with Hydrox Corp. | |
| 31. Supplee-Wills-Jones Milk Co. Philadelphia, Pa. (Acquired by N. D. P. Corp.). | 11/6/25 | Stock..... | Milk, Cream, Ice Cream and other milk products. |
| 32. Newark Milk Company Newark, N. J. (Acquired by N. D. P. Corp.). | 11/6/25 | Stock..... | Milk, Cheese and condensed milk. |
| 33. Sheffield Farms Co. Inc. New York, NY (Acquired by N. D. P. Corp.). | 12/1/25 | Stock..... | Milk, Cream, Butter Cheese and other milk products. |
| 34. Sheffield Condensed Milk Co. Inc. New York, N. Y. (Acquired by N. D. P. Corp.). | 12/1/25 | Stock..... | Evaporated and Condensed Milk. |
| 35. Sheffield By-Products Co. Inc. New York, N. Y. (Acquired by N. D. P. Corp.). | 12/1/25 | Stock..... | Casein, Milk Sugar, and other milk products. |
| 36. Union Ice Cream Co. Nashville, Tenn. (Acquired by N. D. P. Corp.). | 12/10/25 | Stock..... | Ice Cream. |

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 18, 1938—Continued*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|--|-------------|---|--|
| | Date | Type | |
| 37. The Franklin Ice Cream Co. (Neb.) Kansas City, Mo. (Acquired by N. D. P. Corp.). | 12/11/25 | Assets (2 plants only) transferred to Franklin Ice Cream Corp. (Del.). | Ice Cream, Cream and condensed milk. |
| 38. Harding Cream Co. Omaha, Nebr. (Acquired by N. D. P. Corp.). | 12/18/25 | Stock..... | Butter, Ice Cream and other milk products. |
| 39. The Breyer Corp. Philadelphia, Pa. (acquired by N. D. P. Corp.). | 12/28/25 | Assets transferred to new company (Breyer Ice Cream Co.). | Holding Co |
| 40. Breyer Ice Cream Co. Philadelphia, Pa. (Acquired by N. D. P. Corp.). | 12/28/25 | Assets transferred to new company of same name. | Ice Cream, Milk, Cream and butter. |
| 41. Breyer Ice Cream Co. Inc., Long Island City, N. Y. (Acquired by N. D. P. Corp.). | 12/28/25 | Assets transferred to new company of same name. | Ice Cream. |
| 42. Crescent Ice Cream Co., Rockford, Ill. (Acquired by Allen Ice Cream Co.). | 12/28/25 | Assets (Ice Cream) business only merged with Allen Ice Cream Co. | Ice Cream. |
| 43. Titusville Butter & Egg Co., Titusville, Pa. (Acquired by Moore Bros. Co.). | 12/28/25 | Assets merged with Moore Bros. Co. | Butter and Eggs. |
| 44. Consolidated Buttermilk Corp. Chicago, Ill. (Acquired by N. D. P. Corp.). | 1/20/26 | Stock..... | Holding Company. |
| 45. Consolidated Products Co., Chicago, Ill. (Acquired by N. D. P. Corp.). | 1/20/26 | Stock..... | Semi-solid Buttermilk. |
| 46. Canadian United Products Co. Ltd. (Acquired by N. D. P. Corp.). | 1/20/26 | Stock..... | Semi-solid Buttermilk. |
| 47. Laher Ice Cream Co. Bedford, Pa. (Acquired by The W. E. Hoffman Co.). | 3/26/26 | Stock..... | Ice Cream and other milk products. |
| 48. Luick Ice Cream Co. Milwaukee, Wis. (Acquired by N. D. P. Corp.). | 8/13/26 | Assets—Company dissolved, assets transferred to new company same name. | Ice Cream. |
| 49. Oak Brand Ice Cream Co. Rockford, Ill. (Acquired by Allen Ice Cream Co.). | 12/31/26 | Assets merged with Allen Ice Cream Co. | Ice Cream. |
| 50. Collis Products Co., Clinton, Pa. (Acquired by N. D. P. Corp.). | 5/25/27 | Assets—Company dissolved, assets transferred to new company, same name. | Dry Buttermilk. |
| 51. Highland Dairies, Inc. Bryn Mawr, Pa. (Acquired by N. D. P. Corp.). | 6/27/27 | Assets—company dissolved, assets transferred to Supple-Wills-Jones Milk Co. | Milk. |
| 52. Trapp Brothers Dairy Co. Milwaukee, Wis. (Acquired by N. D. P. Corp.). | 10/5/27 | Stock—company dissolved, assets transferred to Luick Dairy Co. | Milk, Cream and other milk products. |
| 53. Real Ice Cream Company, Omaha, Nebr. (Acquired by Harding Cream Co.). | 12/19/27 | Assets merged with Harding Cream Co. | Ice Cream. |
| 54. Breakstone Brothers, Inc., New York, N. Y. (Acquired by N. D. P. Corp.). | 1/12/28 | Assets—Company dissolved, assets transferred to new company, same name. | Cheese, Butter, Cream, and other milk products. |
| 55. Palisade Cheese Company, New York, (Acquired by N. D. P. Corp.). | 1/12/28 | Stock—Company dissolved in 1934. Assets distributed to other subsidiaries. | Cheese, and other milk products. |
| 56. St. Louis Dairy Company, St. Louis (Acquired by N. D. P. Corp.). | 2/28/28 | Assets—Company dissolved. Assets transferred to new company, same name. | Milk, Cream, Butter, Ice Cream, and other milk products. |
| 57. South Side Dairy Prods. Co., Oil City, Pa. (Acquired by Moore Bros. Co.). | 3/21/28 | Assets merged with Moore Bros. | Milk. |
| 58. Jersey Ice Cream Company, Columbus, Nebr. (Acquired by Harding Cream Co.). | 3/23/28 | Assets merged with Harding Cream Co. | Ice Cream. |
| 59. The Telling-Belle-Vernon Co., Cleveland, Ohio. (Acquired by N. D. P. Corp.). | 4/26/28 | Stock..... | Milk, Cream, Ice Cream, and other milk products. |
| 60. The Baker-Tabor Ice Cr. Co., Cleveland, Ohio. (Acquired by N. D. P. Corp.). | 4/26/28 | Stock..... | Ice Cream. |
| 61. The Peerless Ice Cr. Company, Cleveland, Ohio (Acquired by N. D. P. Corp.). | 4/26/28 | Stock..... | Ice Cream. |
| 62. The Tabor Ice Cream Company, Cleveland, Ohio (Acquired by N. D. P. Corp.). | 4/26/28 | Stock..... | Ice Cream. |
| 63. The Belle-Vernon Mapes Co., Cleveland, Ohio (Acquired by N. D. P. Corp.). | 4/26/28 | Stock..... | Milk, Cream, and other milk products. |

EXHIBIT I.—List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|---|--|
| | Date | Type | |
| 64. The Telling Brothers Co., Cleveland, Ohio (Acquired by N. D. P. Corp.). | 4/26/28 | Stock..... | Milk, Cream, and other milk products. |
| 65. Roberts Dairy Co., Buffalo, N. Y. (Acquired by N. D. P. Corp.). | 4/27/28 | Assets transferred to new company, same name. | Ice Cream. |
| 66. The Tri-State Butter Company, Cincinnati, Ohio, (Acquired by N. D. P. Corp.). | 5/12/28 | Assets transferred to new company, same name. | Butter, Buttermilk. |
| 67. The Chas. H. Hess Co. Cincinnati, O. (Acquired by N. D. P. Corp.). | 5/12/28 | Assets merged with Tri-State Butter Co. | Butter, Buttermilk. |
| 68. Alex Grossman & Co., New York, N. Y. (Acquired by Harding Creamery Company). | 9/4/28 | Assets merged with Harding Cream Co. | Butter, Buttermilk. |
| 69. Peoples Sanitary Dairy, Norristown, Pa. (Acquired by Supplee-Wills-Jones Milk Co.). | 9/6/28 | Assets merged with Supplee-Wills-Jones Milk Co. | Milk, and other milk products. |
| 70. Consumers Dairy Company, Union City, N. J. (Acquired by N. D. P. Corp.). | 10/1/28 | Assets—Company dissolved, assets transferred to new company, same name. | Milk, Cream, Butter, Cheese, and other milk products. |
| 71. Keystone Dairy Company, Hoboken, N. J. (Acquired by N. D. P. Corp.). | 10/1/28 | Assets—Company dissolved, assets transferred to new company, same name. | Milk, Cream, Ice Cream, and other milk products. |
| 72. Arctic Dairy Prod. Company, Detroit, Mich. (Acquired by N. D. P. Corp.). | 10/29/28 | Stock..... | Ice Cream, Cream, Milk, Butter, and other milk products. |
| 73. Rockford Ice Cream Company, Grand Rapids, Mich. (Acquired by N. D. P. Corp.). | 10/29/28 | Stock..... | Ice Cream. |
| 74. General Ice Cream Corp., Schenectady, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream, Milk. |
| 75. Albany Ice Cream Co. Inc., Albany, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 76. Amsterdam Ice Cream Co. Inc., Amsterdam, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 77. Binghamton Ice Cream Company, Binghamton, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 78. Cataract Ice Cream Company, Niagara Falls, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 79. Clayton Ice Cream Co. Inc. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 80. Coon Ice Cream Co. Inc., Lewiston, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 81. Dolbey Ice Cream Co. Inc., Providence, R. I. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 82. Eastern Dairies, Inc., Springfield, Mass. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 83. Elmira Ice Cream Co. Inc., Elmira, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 84. Franklin Creameries Corp., Springfield, Mass. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Milk, Cream, and Condensed Milk. |
| 85. Geneva Ice Cream Co. Inc., Geneva, N. Y. | 11/5/28 | Stock..... | Ice Cream. |
| 86. Hoefler Ice Cream Co. Inc., Buffalo, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 87. Howe Ice Cream Co. Rutland, Vt., (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 88. International Ice Cream Co., Schenectady, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 89. Kent Ice Cream Co. Inc., Burlington, Vt. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 90. Kirk-Maher Ice Cream Co., Watertown, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |
| 91. Lake Shore Ice Cream Co., Erie, Pa. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock..... | Ice Cream. |

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|--|---|
| | Date | Type | |
| 92. Made-Rite Ice Cream Co. Inc., New Bedford, Pa. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 93. Mansion House Ice Cr. Company, E. Cambridge, Mass. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 94. New Haven Dairy Co. (The), New Haven, Conn. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Milk, Ice Cream. |
| 95. Norton Ice Cream Co., Rutland, Vt. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 96. O. K. Ice Cream Company, Inc., Binghamton, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 97. Oneonta Ice Cream Co. Inc., Oneonta, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 98. Peerless Ice Cream Co., Niagara Falls, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 99. Rochester Ice Cream Co. Inc. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 100. Lemon Ice Cream Co. Inc. (The), New Haven, Conn. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 101. Syracuse Ice Cream Co. Inc. (The), Syracuse, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 102. Tait Brothers, Inc., Springfield, Mass. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Milk and milk products. |
| 103. Taylor Creameries, Inc., Buffalo, N. Y. (Acquired by N. C. P. Corp.). | 11/5/28 | Stock | Milk, Cream and other milk products. |
| 104. Utica Ice Cream Co. Inc., Utica, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice cream. |
| 105. Wagars' Inc., Troy, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice cream. |
| 106. What Cheer Creamery Co., Providence, R. I. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice cream. |
| 107. Wheat's Ice Cream Co. Inc., Buffalo, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 108. Fro-Joy Ice Cream Co. Inc., Schenectady, N. Y. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 109. General Ice Cream Co. Ltd., Ontario, Can. (Acquired by N. D. P. Corp.). | 11/5/28 | Stock | Ice Cream. |
| 110. Baker-Evans Ice Cream Co., Cleveland, O. (Acquired by N. D. P. Corp.). | 11/12/28 | Assets—company dissolved, assets transferred to Telling-Belle Vernon Co. | Ice Cream. |
| 111. The Wilson Ice Cream Co., Huntington, W. Va. (Acquired by N. D. P. Corp.). | 11/12/28 | Assets—Company dissolved, assets transferred to Telling-Belle Vernon Co. | Ice Cream. |
| 112. The Akon Pure Milk Co., Akron, Ohio (Acquired by N. D. P. Corp.). | 11/23/28 | Assets—company dissolved, assets transferred to new company, same name. | Milk, Cream and other milk products. |
| 113. The Sanitary Milk Co., Canton, Ohio (Acquired by N. D. P. Corp.). | 11/23/28 | Assets—company dissolved. Assets transferred to new company, same name. | Milk, Cream, Ice Cream and other milk products. |
| 114. Simmons & Hammond Mfg. Co., Portland, Me. (Acquired by N. D. P. Corp.). | 12/21/28 | Assets. Company dissolved. Assets transferred to new company, same name. | Ice Cream, Cream. |
| 115. W. R. Bell, Homer City, Pa. (Acquired by Rieck-McJunkin Dairy Co.). | 12/27/28 | Assets—Merger with Rieck-McJunkin Dairy Co. | Milk. |
| 116. O. P. Laufer, Everett, Pa. (Acquired by Laher Ice Cream Co.). | 1/3/29 | Assets merged with Laher Ice Cream Co. | Ice Cream. |
| 117. The Ohio Cloverleaf Dairy Company, Toledo, Ohio (Acquired by N. D. P. Corp.). | 1/10/29 | Assets—Company dissolved, assets transferred to new company, same name. | Milk, Cream, Butter and Buttermilk. |
| 118. Chestnut Farms Dairy Inc., Washington, D. C. (Acquired by N. D. P. Corp.). | 1/15/29 | Assets—Company dissolved, assets transferred to new company, same name. | Milk, Cream and other milk products. |

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|--|-------------|--|---|
| | Date | Type | |
| 119. J. D. Roszell Co., Peoria, Ill. (Acquired by N. D. P. Corp.). | 1/15/29 | Assets—Co. dissolved, assets transferred to new company, same name. | Milk, Ice Cream and other milk products. |
| 120. Wisconsin Creamery, Inc., Milwaukee, Wis. (Acquired by N. D. P. Corp.). | 1/18/29 | Stock | Milk, Cream, Ice Cream, Butter and other milk products. |
| 121. American Ice Cream Co., Madison, Wis. (Acquired by N. D. P. Corp.). | 1/18/29 | Stock | Ice Cream. |
| 122. Bendfelt Ice Cream Co., Milwaukee, Wis. (Acquired by N. D. P. Corp.). | 1/18/29 | Stock | Ice Cream. |
| 123. Blommer Ice Cream Co., Milwaukee, Wis. (Acquired by N. D. P. Corp.). | 1/18/29 | Stock | Ice Cream. |
| 124. Cedarburg Dairy Co., Cedarburg, Wis. (Acquired by N. D. P. Corp.). | 1/18/29 | Stock | Milk, Ice Cream. |
| 125. Waukesha Milk Company, Waukesha, Wis. (Acquired by N. D. P. Corp.). | 1/18/29 | Stock | Milk, Ice Cream. |
| 126. Consumers Dairy Co., Jackson, Mich. (Acquired by N. D. P. Corp.). | 1/24/29 | Stock | Milk, Cream and other milk products. |
| 127. Ebling Creamery Co., Detroit, Mich. (Acquired by N. D. P. Corp.). | 1/26/29 | Stock | Milk, Cream, Butter and other milk products. |
| 128. City Dairies, Inc. Detroit, Mich. (Acquired by N. D. P. Corp.). | 1/26/29 | Stock | Milk, Cream, Butter and other milk products. |
| 129. Highland Park-Schlaff-Wilson Cr. Co. Detroit, Mich. (Acquired by N. D. P. Corp.). | 1/26/29 | Stock | Milk, Cream, Butter and other milk products. |
| 130. Highland Park Cr'y. Co. Detroit, Mich. (Acquired by N. D. P. Corp.). | 1/26/29 | Stock | Milk, Cream, Butter and other milk products. |
| 131. John Schlaff Creamery Co. Detroit, Mich. (Acquired by N. D. P. Corp.). | 1/26/29 | Stock | Milk, Cream, Butter and other milk products. |
| 132. The Wilson Creamery Co. Detroit, Mich. (Acquired by N. D. P. Corp.). | 1/26/29 | Stock | Milk, Cream, Butter and other milk products. |
| 133. Mayflower Ice Cream Co. Altoona, Pa. (Acquired by the W. E. Hoffman Co.). | 1/28/29 | Assets merged with W. E. Hoffman Co. | Ice Cream. |
| 134. Citizens Dairy Co. Flint, Michigan. (Acquired by Arctic Dairy Prod. Co.). | 1/30/29 | Assets—company dissolved. Assets merged with Arctic Dairy Products Co. | Milk, Cream, Butter and Buttermilk. |
| 135. The Clover Dairy Co. Wilmington, Del. (Acquired by N. D. P. Corp.). | 1/31/29 | Stock | Milk, Cream, Butter and other milk products. |
| 136. Bridgeman Dairy Co. Flint, Mich. (Acquired by Arctic Dairy Prod. Co.). | 2/1/29 | Assets merged with Arctic Dairy Prod. Co. | Dairy products. |
| 137. The Jersey Ice Cream Co. Lawrence, Mass. (Acquired by N. D. P. Corp.). | 2/1/29 | Assets—Co. dissolved. Assets transferred to new company, same name. | Ice Cream. |
| 138. National Creamery Co. Boston, Mass. (Acquired by N. D. P. Corp.). | 2/1/29 | Assets—Co. dissolved. Assets transferred to new company, same name. | Butter, Cheese, Eggs. |
| 139. Dies-Fertig Company Dover, Ohio (Acquired by the Telling Belle-Vernon Co.). | 2/19/29 | Assets. Merged with Telling-Belle-Vernon. | Cheese. |
| 140. John H. Muller Dairies, Inc., New York, N. Y. (Acquired by N. D. P. Corp.). | 2/20/29 | Assets—Company dissolved. Assets transferred to Muller Dairies, Inc. | Milk, Cream and other milk products. |
| 141. Fred H. Muller, Inc. Long Island City, N. Y. (Acquired by N. D. P. Corp.). | 2/20/29 | Assets—Co. dissolved. Assets transferred to Muller Dairies, Inc. | Milk, Cream and other milk products. |
| 142. The Shetler Ice Cream Company, Bellaire, Ohio (Acquired by N. D. P. Corp.). | 3/4/29 | Assets—Co. dissolved. Assets transferred to Telling-Belle-Vernon. | Ice Cream. |
| 143. Sussex Dairy Farms Products, Inc. Westwood, N. J. (Acquired by Sheffield Farms Co. Inc.). | 4/10/29 | Assets merged with Sheffield Farms Co. Inc. | Milk, and milk products. |
| 144. Batavia Ice Cream Co. Inc. Batavia, N. Y. (Acquired by General Ice Cream Corp.). | 4/11/29 | Assets—Co. dissolved, assets transferred to new company, same name. | Ice Cream. |

EXHIBIT I.—List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued

| Name & Location of Company Acquired | Acquisition | | Commodities Handed |
|--|-------------|---|---|
| | Date | Type | |
| 145. The Youngstown Sanitary Milk Co., Youngstown, Ohio. (Acquired by N. D. P. Corp.). | 4/13/29 | Assets—Co. dissolved. Assets transferred to new company, same name. | Milk, Cream, Ice Cream, Butter and other milk products. |
| 146. The Ohio Pure Milk Co., Youngstown, Ohio. (Acquired by N. D. P. Corp.). | 4/13/29 | Assets—Co. dissolved, assets transferred to new company, same name. | Milk, Cream, Butter, and other milk products. |
| 147. W. R. Ruhlman & Son, Inc., Toledo, Ohio. (Acquired by N. D. P. Corp.). | 4/13/29 | Assets—Co. dissolved. Assets transferred new Ohio Pure Milk Co. | Milk, Cream, Butter and other milk products. |
| 148. Ohio-Toledo Ice Cream Co., Toledo, Ohio. (Acquired by N. D. P. Corp.). | 4/18/29 | Assets—Co. dissolved, assets transferred to new company, same name. | Ice Cream. |
| 149. Flindley Dairy Co. Inc. Toledo, Ohio. (Acquired by N. D. P. Corp.). | 4/18/29 | Assets—Co. dissolved. Assets transferred to Ohio Toledo Ice Cream Co. | Milk, Cream, Ice Cream, Butter and other milk products. |
| 150. Hall's Ice Cream Co., Juniata, Pa. (Acquired by The W. E. Hoffman Co.). | 4/30/29 | Assets merged with W. E. Hoffman Co. | Ice Cream. |
| 151. Dodds-Alderney Dairy, Inc., Buffalo, N. Y. (Acquired by N. D. P. Corp.). | 5/2/29 | Stock | Milk and Cream. |
| 152. Queen City Dairy Co., Inc., Buffalo, N. Y. (Acquired by N. D. P. Corp.). | 5/2/29 | Stock | Milk and Cream. |
| 153. Arctic Cream Co., Fremont, Nebr. (Acquired by N. D. P. Corp.). | 5/4/29 | Assets—Company dissolved, assets transferred to Harding Cream Co. | Ice Cream. |
| 154. Piper Ice Cr. Co. of Muskegon, Muskegon, Mich. (Acquired by N. D. P. Corp.). | 5/8/29 | Assets—Company dissolved, assets transferred to Arctic Cream Co. | Ice Cream (new company of same name organized to protect name). |
| 155. Supreme Ice Cream Co., Detroit, Mich. (Acquired by N. D. P. Corp.). | 5/13/29 | Stock | Ice Cream. |
| 156. Louis M. Sagal, New Haven, Conn. (Acquired by N. D. P. Corp.). | 5/16/29 | Assets transferred to new company (Sagal Lou Products Co.). | Milk and Ice Cream. |
| 157. Decatur Ice Cream Company, Decatur, Ill. (Acquired by N. D. P. Corp.). | 5/23/29 | Assets—Company dissolved, assets transferred to J. D. Roszell Co. | Milk, Ice Cream, and Butter. |
| 158. Foster's Dairy Prod., Peoria, Ill. (Acquired by N. D. P. Corp.). | 5/29/29 | Assets transferred to J. D. Roszell Co. | Ice Cream. |
| 159. Washington Dairy Co., Peoria, Ill. (Acquired by N. D. P. Corp.). | 5/29/29 | Assets—Company dissolved, assets transferred to J. D. Roszell Co. | Milk, Ice Cream, Butter, and other milk products. |
| 160. Louis Feingold, Bronx, N. Y. (Acquired by Breakstone Bros., Inc.). | 6/1/29 | Assets merged with Breakstone Br., Inc. | Whipped Butter. |
| 161. Loren D. Vidder, Royal Oak, Mich. (Acquired by Eblign Creamery Co.). | 6/1/29 | Assets merged with Eblign Creamery Co. | Milk. |
| 162. Cream Products Co., Peoria, Ill. (Acquired by N. D. P. Corp.). | 6/10/29 | Assets—Co. dissolved. Assets transferred to J. D. Roszell Co. | Ice Cream. |
| 163. The Detroit Creamery Company, Detroit, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock | Milk, Cream, Ice Cream, Butter, and other Milk Products. |
| 164. Clinton Creamery Co., Elsie, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock | Milk, Cream, Condensed Milk, and other Milk Products. |
| 165. Fleming Ice Cream Co., Jackson, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock | Ice Cream. |
| 166. Grand Rapids Creamery Company, Grand Rapids, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock | Milk, Cream, Butter, and other Milk Products. |
| 167. Allendale Creamery Co., Allendale, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock | Cream and Butter. |
| 168. Sanitary Milk Co., Grand Rapids, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock | Milk, Cream, Butter and Cheese. |
| 169. Square Deal Milk Company, Detroit, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock | Milk and Milk Products. |

EXHIBIT I.—List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|---|--|
| | Date | Type | |
| 170. Valley City Creamery, Grand Rapids, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock..... | Milk and Cream. |
| 171. Pontiac Dairy Co., Pontiac, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock..... | Milk, Ice Cream, Butter, and other Milk Products. |
| 172. White Ice Cream Company, Flint, Michigan. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock..... | Ice Cream. |
| 173. Williams Ice Cream Company, Saginaw, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock..... | Ice Cream, Ice Cream Mix, Milk and Cream. |
| 174. Wilson Ice Cream Co., Port Huron, Mich. (Acquired by N. D. P. Corp.). | 6/10/29 | Stock..... | Ice Cream. |
| 175. Deerfoot Farms Co., Southboro, Mass. (Acquired by N. D. P. Corp.). | 6/11/29 | Stock..... | Milk, Cream, and other Milk Products and Pork Products. |
| 176. Cameron Ice Cream Company, Lowell, Mass. (Acquired by N. D. P. Corp.). | 6/12/29 | Assets—Company dissolved, assets transferred to General Ice Cream Corp. | Ice Cream. |
| 177. Sam Altschuler, Pittsburgh, Pa. (Acquired by Rieck-McJunkin Dairy Co.) | 6/15/29 | Assets Merged with Rieck-McJunkin Dairy Co. | Milk. |
| 178. Anderson & Patterson, Inc., Worcester, Mass. (Acquired by N. D. P. Corp.). | 6/17/29 | Assets—Ice Cream assets only. Transferred to General Ice Cream Corp. | Ice Cream. |
| 179. Sinclair Ice Cream Co., Galesburg, Ill. (Acquired by N. D. P. Corp.). | 6/22/29 | Assets—certain assets only. Transferred to J. D. Roszell Co. | Ice Cream. |
| 180. The Bryant & Chapman Co., Hartford, Conn. (Acquired by N. D. P. Corp.). | 6/25/29 | Assets—Company dissolved, assets transferred to new company same name. | Milk, Cream, Butter, and other Milk Products. |
| 181. Schupp Dairy Co., Buffalo, N. Y. (Acquired by Dodds Alderney Dairy Co.). | 7/1/29 | Assets Merged with Dodds Alderney Dairy Co. | Milk. |
| 182. John H. Doscher Co., New York, N. Y. (Acquired by Muller Dairies, Inc.). | 7/17/29 | Assets Merged with Muller Dairies, Inc. | Milk. |
| 183. The Ann Arbor Dairy Corp., Ann Arbor, Mich. (Acquired by N. D. P. Corp.). | 7/18/29 | Stock..... | Milk, Cream, Ice Cream, Butter, and other milk Products. |
| 184. Bowman Priebe Ovson Co., Chicago, Ill. (Acquired by N. D. P. Corp.). | 7/19/29 | Stock..... | Packing, Freezing Eggs. |
| 185. National Ice Cream Co., Louisville, Ky. (Acquired by N. D. P. Corp.). | 7/23/29 | Stock..... | Milk, Cream, Ice Cream, and Skim Milk. |
| 186. Maple Grove Farms New York, N. Y. (Acquired by Muller Dairies, Inc.). | 7/25/29 | Assets merged with Muller Dairies, Inc. | Milk. |
| 187. The Matthews Selected Dairies Co., Cincinnati, Ohio. (Acquired by N. D. P. Corp.). | 8/6/29 | Assets—Company dissolved, assets transferred to new company, same name. | Milk, Cream, Butter, and other Milk Products. |
| 188. Westphal & Sons Milk Prod. Co., Hartford, Wis. (Acquired by N. D. P. Corp.). | 8/14/29 | Assets transferred to Luick Dairy Co. | Milk, Cream, Butter, and Cheese. |
| 189. Satin Ice Cream Co., Omaha, Nebr. (Acquired by N. D. P. Corp.). | 8/26/29 | Assets transferred to Harding Cream Co. | Ice Cream. |
| 190. The Hiland Dairy Co., Newport, Ky. (Acquired by N. D. P. Corp.). | 8/31/29 | Assets—Company dissolved, assets transferred to new company, same name. | Milk, Cream, Butter and Cheese. |
| 191. Frechtling Dairy Co., Hamilton, Ohio. (Acquired by N. D. P. Corp.). | 9/3/29 | Assets—company dissolved, assets transferred to new company, same name. | Milk, Cream, Ice Cream, and other Milk Products. |
| 192. A. & L. White Lily Dairy Co., Belleville, Ill. (Acquired by N. D. P. Corp.). | 9/6/29 | Assets—company dissolved, assets transferred to St. Louis Dairy Co. | Milk. |
| 193. Walter Burke Pittsburgh, Pa. (Acquired by Rieck-McJunkin.). | 9/16/29 | Assets merged with Rieck-McJunkin Dairy Co. | Milk. |
| 194. A. L. Lockwood Ice Cream Corp., Utica, N. Y. (Acquired by N. D. P. Corp.). | 9/19/29 | Assets—company dissolved, assets transferred to General Ice Cream Corp. | Ice Cream. |
| 195. Feldman Milk & Cream Co., Newport, Ky. (Acquired by N. D. P. Corp.). | 9/26/29 | Assets—company dissolved, assets transferred to new company, same name. | Milk, Cream, Ice Cream, Butter, Buttermilk, and Cheese. |

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 18, 1938—Continued*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|---|---|
| | Date | Type | |
| 196. Frozenpure Ice Cream Co., Louisville, Ky. (Acquired by N. D. P. Corp.). | 11/4/29 | Assets—company dissolved, assets transferred to National Ice Cream Co. | Ice Cream. |
| 197. The Kenmore Barberton Milk Co., Kenmore, Ohio (Acquired by N. D. P. Corp.). | 11/4/29 | Assets—company dissolved, Assets transferred to Akron Pure Milk Co. | Milk, Cream, Cheese, and other Milk Products. |
| 198. Sugar Creek Creamery Co., Danville, Ill. (Acquired by N. D. P. Corp.). | 11/19/29 | Assets—Company dissolved, Assets transferred to new company, same name. | Butter, Milk, Cream, and other Milk Products. |
| 199. Golden Grain Butter Co., Cape Girardeau, Mo. (Acquired by N. D. P. Corp.). | 11/19/29 | Assets—Company dissolved. Assets transferred to Sugar Creek Creamery Co. | Butter, Cream. |
| 200. Lange Creamery Co., Omaha, Nebr. (Acquired by N. D. P. Corp.). | 11/19/29 | Assets—company dissolved, assets transferred to Sugar Creek Creamery Company. | Butter, Cream. |
| 201. Marshall Milk & Cream Co., Marshall, Ill. (Acquired by N. D. P. Corp.). | 11/19/29 | Assets—Company dissolved, assets transferred to Sugar Creek Creamery Co. | Milk and Cream. |
| 202. Sugar Creek Butter Co., Orlando, Fla. (Acquired by N. D. P. Corp.). | 11/19/29 | Assets—Co. dissolved, assets transferred to Sugar Creek Creamery Co. | Butter. |
| 203. Graydon Allmen Sanitary Milk Co., Louisville, Ky. (Acquired by N. D. P. Corp.). | 11/21/29 | Assets—Co. dissolved, assets transferred to new company, same name. | Milk, Butter, Cream, and other milk products. |
| 204. Belleville Pure Milk & Ice Cr. Co., Belleville, Ill. (Acquired by N. D. P. Corp.). | 11/22/29 | Assets—Co. dissolved. Assets transferred to St. Louis Dairy Co. | Milk, Cream, Ice Cream, Butter and Cheese. |
| 205. D. H. Ewing's Sons (Inc.), Louisville, Ky. | 11/26/29 | Assets—Co. dissolved. Assets transferred to new company, same name. | Milk, Cream, Butter, Cheese, and other Milk products. |
| 206. Ott Dairy Co., Cleveland, Ohio (Acquired by N. D. P. Corp.). | 12/1/29 | Assets transferred to Telling-Belle-Vernon Co. | Milk and Cream. |
| 207. Highland Dairy Farms Co., St. Louis, Mo. (Acquired by N. D. P. Corp.). | 12/14/29 | Assets transferred to new company, same name. | Milk, Cream, Butter, Cheese, and other Milk products. |
| 208. Creme-Freez, Inc., Jamaica Plains, Mass. (Acquired by General Ice Cream Corp.). | 12/16/29 | Assets—Co. dissolved, assets merged. General Ice Cream Corp. | Ice Cream. |
| 209. Creme-Freez of Lynn, Inc., Lynn, Mass. (Acquired by General Ice Cream Corp.). | 12/16/29 | Assets—Co. dissolved, assets merged with General Ice Cream Corp. | Ice Cream. |
| 210. The Ideal Sweets Co., Kankakee, Ill. (Acquired by N. D. P. Corp.). | 12/30/29 | Assets—Co. dissolved, assets transferred to J. D. Roszell Co. | Ice Cream. |
| 211. Plymouth Rock Ice Cream Co., No. Abington, Mass. (Acquired by N. D. P. Corp.). | 12/31/29 | Assets—Co. dissolved. Assets transferred to new company, same name. | Ice Cream. |
| 212. E. P. Kaufman, Youngstown, Ohio (Acquired by Youngstown Sanitary Milk Co.). | 12/-/29 | Assets Merged with Youngstown Sanitary Milk Co. | Milk. |
| 213. Mike Paphul, Youngstown, Ohio (Acquired by Youngstown Sanitary Milk Co.). | 12/-/29 | Assets merged with Youngstown Sanitary Milk Co. | Milk. |
| 214. New Milford Milk Co., New Milford, Pa. (Acquired by Sheffield Farms Co. Inc.). | 1/9/30 | Assets merged with Sheffield Farm Co. Inc. | Milk. |
| 215. Schorr-Heinlein Dairy, Crafton, Pa. (Acquired by Rieck-McJunkin Dairy Co.). | 1/16/30 | Assets merged with Rieck-McJunkin Dairy Co. | Milk. |
| 216. Blumer Products Co., Monroe, Wis. (Acquired by Allen Ice Cream Co.). | 1/31/30 | Assets merged with Allen Ice Cream Co. | Ice Cream, and Beverages. |
| 217. Kraft-Phenix Cheese Corp., Chicago, Ill. (Acquired by N. D. P. Corp.). | 3/17/30 | Assets—Co. dissolved, assets transferred to new co., same name. | Cheese and dairy prod. |
| 218. Atlas Dry Milk Co., Chico, Calif. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Dry Milk. |
| 219. Badger-Brodhead Cheese Co., Monroe, Wis. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese and other Milk products. |
| 220. Betz & Jay N. V. Kasshandl, Rotterdam, Holland (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 221. Bitter-Root-Ravalli Dairy Prod. Co., Hamilton, Mont. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Butter, Cheese and other Milk products. |

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|--|-------------|------------|---|
| | Date | Type | |
| 222. Bradley Cheese Co., Pittsburgh, Pa. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese, Mayonnaise. |
| 223. C. R. Cheney Co., Los Angeles, Calif. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese, Salad Dressings. |
| 224. Castles Products, Inc., Los Angeles, Calif. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese, Salad Dressings. |
| 225. Cloverleaf Creameries, Inc., Decatur, Ind. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Butter, Cheese, Ice Cream, and other Milk products. |
| 226. Food Specialties Distributing Co., Dayton, Ohio (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese, Mayonnaise. |
| 227. Gelfand Manufacturing Co., Baltimore, Md. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Mayonnaise. |
| 228. Greenwood Dairy Salem, Ore. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Butter, Cheese. |
| 229. Grover-Ansted Cheese Co. (The), Toledo, Ohio. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese, Mayonnaise. |
| 230. Henard Mayonnaise Co. Nashville, Tenn. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Mayonnaise. |
| 231. Karlem-Bickelhaupt Co. Rome, N. Y. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 232. Kraft Cheese Co. Ltd. Hayes, Eng. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 233. Kraft Cheese Co. G. m. b. H. Hamburg, Germany (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 234. Kraft-Phenix Cheese Co. Ltd. Montreal, Canada (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese, Mayonnaise. |
| 235. Kraft-Phenix Cheese Co. of Cuba, Havana, Cuba (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 236. Kraft-Phenix Cheese Corp. of the South, Chicago, Ill. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese and Cream Curd. |
| 237. Kraft Phenix Cheese Corp. of Wis. Plymouth, Wis. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 238. Kraft-Phenix Dairies, Inc. Wausau, Wis. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Butter, Cheese, and other Milk Products. |
| 239. Kraft-Walker Cheese Co. Prop. Ltd. Melbourne, Aust. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 240. Laabs Cheese Co. Curtiss, Wis. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 241. Maher Cheese Co. San Francisco, Calif. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 242. Miller-Richardson Co. Inc. Lowville, N. Y. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 243. Missoula Creamery, Inc. Missoula, Mont. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Butter, Cream, Ice Cream, and Eggs. |
| 244. National Cheese Co. Chicago, Ill. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 245. Oakdale Dairy Co. Inc. New York, N. Y. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Sour Cream, Cheese, and Butter. |
| 246. Phenix Cheese Co. Ltd. London, Eng. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 247. Porter Cheese Co. Somerville, Mass. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Kraft's Products. |
| 248. Purity Creamery Prod. Inc. (The), New York, N. Y. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cream and Cheese. |

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|--|-------------|--|--|
| | Date | Type | |
| 249. Red Rock Dairy, Portland, Ore. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese and Butter. |
| 250. Red Rock Creamery Kent, Wash. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese and Butter. |
| 251. Sanchez Cheese Co. Chicago, Ill. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 252. Sauquoit Valley Dairy Co. Inc. Utica, N. Y. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 253. Sentinel Creamery Inc. Missoula, Mont. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Butter and other Dairy prod. |
| 254. Sheboygan Cheese Co. Sheboygan, Wis. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 255. C. A. Straubel Co. Greenbay, Wis. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Cheese. |
| 256. Southern Dairies, Inc. Washington, D. C. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Holding Co. |
| 257. Chapin-Sacks, Inc. Washington, D. C. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Holding Co. |
| 258. Chapin-Sacks Corp. Richmond, Va. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Ice Cream and other Milk Products. |
| 259. Purity Ice Cr. & Dairy Co. of Fla. Jacksonville, Fla. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | |
| 260. Southern Dairies, Inc. Richmond, Va. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Ice Cream, Milk and Milk Products. |
| 261. Southern Dairies of Cuba, S. A. Havana, Cuba. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | |
| 262. Southern Dairies of Florida, Inc. Jacksonville, Fla. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Ice Cream, Milk and Milk Products. |
| 263. Southern Dairies of Alabama, Inc. Montgomery, Ala. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | |
| 264. Tuttle Cheese Co. Inc. Oakland, Calif. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Ice Cream. |
| 265. Valley Cheese Co. (The), Cincinnati, Ohio (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | |
| 266. Ward Dry Milk Co. St. Paul, Minn. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | Ice Cream. |
| 267. Wheeler Cheese Co. Inc. Brooklyn, N. Y. (Acquired by N. D. P. Corp.). | 3/17/30 | Stock..... | |
| 268. Howard Moore Detroit, Mich. (Acquired by Ebling Creamery Co.). | 3/24/30 | Assets merged with Ebling Creamery Co. | Ice Cream, Butter other Milk Products and Beverages. |
| 269. Lee Blue Ice Cr. & Bottling Co. Red Oak, Ia. (Acquired by N. D. P. Corp.). | 3/26/30 | Assets transferred to Harding Cream Co. | |
| 270. Jersey Ice Cream Co. Toledo, Ohio (Acquired by N. D. P. Corp.). | 3/27/30 | Stock—New Company organized to protect name, assets transferred to Ohio Toledo Ice Cream Co. | Ice Cream. |
| 271. Erwin E. Knapp, Detroit, Mich. (Acquired by Ebling Creamery Co.). | 4/1/30 | Assets merged with Ebling Creamery Co. | |
| 272. Sanitary Dairy Co. O'Neill, Nebr. (Acquired by Harding Creamery). | 3/1/30 | Assets merged with Harding Creamery Co. | Milk. |
| 273. Chapman Dairy Co. Kansas City, Mo. (Acquired by N. D. P. Corp.). | 4/25/30 | Assets—Co. dissolved. Assets transferred to new company same name. | |
| 274. Theodore Korte, Detroit, Mich. (Acquired by Ebling Creamery Co.). | 4/26/30 | Assets merged with Ebling Creamery Co. | Milk. |
| 275. Brighton Place Dairy Co. Rochester, N. Y. (Acquired by N. D. P. Corp.). | 5/1/30 | Stock..... | |

EXHIBIT I.—List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|---|--|
| | Date | Type | |
| 276. Puritan Dairy Co., Akron, Ohio (Acquired by The Akron Pure Milk Co.). | 5/16/30 | Assets merged with Akron Pure Milk Co. | Milk. |
| 277. Shellenburger, Charles H., Youngstown, O. (Acquired by The Youngstown Sanitary Milk Co.). | 6/4/30 | Assets merged with Youngstown Sanitary Milk Co. | Milk. |
| 278. Lee Lewis, Inc. Louisville, Ky. (Acquired by N. D. P. Corp.). | 6/19/30 | Assets—Co. dissolved, assets to new company, same name. | Ice Cream. |
| 279. Nauman's Dairy, Pittsburgh, Pa. (Acquired by Rieck-McJunkin Dairy Co.). | 6/23/30 | Assets merged with Rieck-McJunkin Dairy Co. | Milk. |
| 280. R. A. Fash Company, Everett, Mass. (Acquired by N. D. P. Corp.). | 6/25/30 | Assets—Company dissolved; assets transferred to General Ice Cream Co. | Ice Cream. |
| 281. R. G. Miller & Sons, Inc., Hartford, Conn. (Acquired by N. D. P. Corp.). | 7/22/30 | Assets—Co. dissolved; assets transferred to new company; same name. | Milk, Cream, and other Milk Products. |
| 282. Jersey Ice Cream Co. Inc., Schenectady, N. Y. (Acquired by N. D. P. Corp.). | 8/7/30 | Assets—Co. dissolved; assets transferred to General Ice Cream Co. | Ice Cream. |
| 283. Harry J. Sloan, Detroit, Mich. (Acquired by Ebling Creamery Company). | 8/16/30 | Assets merged with Ebling Creamery Co. | Milk. |
| 284. Omaha Ice Cream Co., Omaha, Nebr. (Acquired by Harding Ice Cream Co.). | 8/30/30 | Stock | Ice Cream. |
| 285. Province Line Dairy, Inc., Princeton, N. J. (Acquired by Supplee-Wills-Jones Milk Co.). | 9/17/30 | Assets merged with Supplee-Wills-Jones Milk Co. | Milk. |
| 286. Western Maryland Dairy Corp. (Including Fairfield Farms, Inc.), Baltimore, Md. (Acquired by N. D. P. Corp.). | 9/25/30 | Stock | Milk, Cream, Butter, Cheese and other Milk Products. |
| 287. Millers Dairy, Inc., Baltimore, Md. (Acquired by N. D. P. Corp.). | 9/25/30 | Stock | Milk, Cream. |
| 288. Barrett Riedoni, Dowagiac, Mich. (Acquired by N. D. P. Corp.). | 10/11/30 | Assets transferred to Artic Dairy Products Co. | Milk and Ice Cream. |
| 289. Chevy Chase Dairy, Inc., Washington, D. C. (Acquired by N. D. P. Corp.). | 10/16/30 | Assets—Co. dissolved, assets transferred & new company; same name. | Milk, Cream, Butter, Cheese and other Milk Products. |
| 290. Murray Hill Farms Dairy, Inc., New York, N. Y. (Acquired by Muller Dairies Inc.). | 10/16/30 | Assets—Co. dissolved; assets merged with Muller Dairies, Inc. | Milk, Cream, and other Milk Products. |
| 291. Cyrus G. Lathers Detroit, Mich. (Acquired by Ebling Creamery Co.). | 10/21/30 | Assets merged with Ebling Creamery Co. | Milk. |
| 292. The Luxury Mayonnaise Co., New York, N. Y. (Acquired by N. D. P. Corp.). | 11/5/30 | Assets transferred to Wheeler Cheese Co. | Mayonnaise. |
| 293. Ladysmith Cheese Co., Freeport, Ill. (Acquired by N. D. P. Corp.). | 12/11/30 | Assets—Co. dissolved, new company formed to protect name; assets transferred to Fabst-ett Corp. | Cheese. |
| 294. Henry Dister, Youngstown, Ohio (Acquired by The Youngstown Sanitary Milk Co.). | 12/18/30 | Assets merged with Youngstown Sanitary Milk Co. | Milk. |
| 295. Capital Food Products Co., Dallas, Texas (Acquired by Kraft-Phenix Cheese Corp.). | 1/10/31 | Assets, Mayonnaise business only; merged with Kraft-Phenix Cheese Corp. | Mayonnaise. |
| 296. W. H. Taro, Malone, N. Y. (Acquired by General Ice Cream Corp.). | 1/29/31 | Assets—Ice cream business only—merged with General Ice Cream Co. | Ice Cream. |
| 297. Purity Ice Cream & Creamery Co., Inc., Rome, Ga. (Acquired by Southern Dairies, Fla., Inc.). | 1/31/31 | Assets—Part of assets only; merged with Southern Dairies, Fla. Inc. | Ice Cream and Milk. |
| 298. Dalton Creamery Co., Inc., Rome, Ga. (Acquired by Southern Dairies, Fla., Inc.). | 1/31/31 | Assets—Part of assets only; merged with Southern Dairies, Fla. Inc. | Ice Cream and Milk. |
| 299. Acme Dairy, Baltimore, Md. (Acquired by Miller's Dairy, Inc.). | 2/4/31 | Assets merged with Miller's Dairy, Inc. | Milk. |
| 300. E. J. Schwartz Distributing Co., Rochester, N. Y. (Acquired by Kraft-Phenix Cheese Corp.). | 2/7/31 | Assets transferred to new company; same name. | Cheese and Mayonnaise. |
| 301. Jodrie Distributing Co., Springfield, Mass. (Acquired by Kraft-Phenix Cheese Corp.). | 3/7/31 | Assets merged with Kraft-Phenix Cheese Corp. | Cheese and Mayonnaise. |

EXHIBIT I.—List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|---|--|
| | Date | Type | |
| 302. Joseph J. Senesky, Detroit, Mich. (Acquired by Ebling Creamery Co.). | 3/7/31 | Assets merged with Ebling Creamery Co. | Milk. |
| 303. Frederick Griesner, New York, N. Y. (Acquired by Oakdale Dairy Co., Inc.). | 3/11/31 | Assets merged with Oakdale Dairy Co. | Cheese. |
| 304. The Echo Vale Creamery Co., Inc., Bedford, Pa. (Acquired by Laher Ice Cream Co.). | 3/26/31 | Assets merged with Lakes Ice Cream Co. | Milk and Milk Products. |
| 305. New Kingston Cheese Co. Inc., New York, N. Y. (Acquired by Breakstone Bros., Inc.). | 4/1/31 | Stock..... | Cream, Butter, Other Milk Products and Eggs. |
| 306. Eck & Fisher Ice Cream Company, Allentown, Pa. (Acquired by Supplee-Wills-Jones Milk Co.). | 4/20/31 | Assets merged with Supplee-Wills-Jones Milk Co. | Ice Cream. |
| 307. Richmond Cooperative Assn., Inc., Richmond, Vt. (Acquired by General Ice Cr. Corp.). | 4/25/31 | Assets—Ice cream business only, merged with General Ice Cream Co. | Ice Cream. |
| 308. The Miller Dairy Co., New Canaan, Conn. (Acquired by N. D. P. Corp.). | 5/1/31 | Assets—Co. dissolved; assets transferred to new company; same name. | Milk, Cream. |
| 309. Ashtabula Pure Milk Co., Ashtabula, Ohio (Acquired by The Telling Belle Vernon Co.). | 5/25/31 | Assets—Certain assets from receiver; merged with Telling-Belle-Verna Milk Co. | Milk, Cream. |
| 310. Consolidated Dairy Products Co., Long Island City, N. Y. (Acquired by N. D. P. Corp.). | 6/17/31 | Assets—Co. dissolved, assets transferred and new company; same name. | Ice Cream. |
| 311. Consolidated Dairy Prod. Co., Passaic, N. J. (Acquired by N. D. P. Corp.). | 6/17/31 | Assets—Co. dissolved; assets transferred and new company; same name. | Ice Cream. |
| 312. Malden Ice Cream Co., Malden, Mass. (Acquired by N. D. P. Corp.). | 6/26/31 | Assets—Co. dissolved; assets transferred and General Ice Cream Corp. | Ice Cream. |
| 313. D. W. Whitmore & Co., Inc., New York, N. Y. (Acquired by Kraft-Phenix Cheese Corp.). | 7/28/31 | Assets—Co. dissolved; assets transferred to Kraft-Phenix Cheese Co. | Cheese, Butter. |
| 314. Fort Schuyler Farms, Inc., Utica, N. Y. (Acquired by Sheffield Farms Co., Inc.). | 8/6/31 | Assets—Part of assets only. Merged with Sheffield Farms Co., Inc. | Milk, Cream. |
| 315. Carl L. Kelley, Lexington, Ky. (Acquired by Kraft-Phenix Cheese Corp.). | 8/27/31 | Assets merged with Kraft-Phenix Cheese Co. | Cheese. |
| 316. The Manchester Dairy Ice Cr. Co., So. Manchester, Conn. (Acquired by General Ice Cream Corp.). | 9/2/31 | Assets merged with General Ice Cream Corp. | Ice Cream. |
| 317. Marley Farm Products Co., Newark, N. J. (Acquired by Breakstone Bros., Inc.). | 9/24/31 | Stock..... | Milk and Milk Products. |
| 318. Rogers Ice Cream Co., Inc., Poughkeepsie, N. Y. (Acquired by General Ice Cream Corp.). | 2/15/32 | Assets merged with General Ice Cream Corp. | Ice Cream. |
| 319. Dake Dairy Products Co., Inc., Greenfield, N. Y. (Acquired by General Ice Cream Corp.). | 3/22/32 | Stock..... | Ice Cream. |
| 320. Quality Ice Creams, Inc., Cleveland, Ohio (Acquired by The Telling Belle-Vernon Co.). | 11/16/32 | Assets Transferred to new co.; same name. | Ice Cream. |
| 321. Davis Cheese Company, Plymouth, Wis. (Acquired by Kraft-Phenix Cheese Corp.). | 1/1/33 | Assets Transferred to new company; same name. | Cheese. |
| 322. Shore Dairy Products, Inc., Brooklyn, N. Y. (Acquired by Merit Dairy Prod. Corp.). | 4/17/33 | Assets Merged with merit Dairy Products Corp. | Cream and Cheese. |
| 323. Dairy Valley Cheese, Ltd., London Ont. Can., (Acquired by Kraft-Phenix Cheese Corp.). | 4/29/33 | Assets Transferred to Dairy-farm Cheese Co., Ltd. | Cheese. |
| 324. A. Quinn's Sons, Brooklyn, N. Y. (Acquired by Merit Dairy Prod. Corp.). | 5/22/33 | Assets merged with Merit Dairy Products Corp. | Cheese and Sour Cream. |
| 325. Columbine Creamery Co., Ltd., Long Beach, Calif. (Acquired by Kraft-Phenix Cheese Corp.). | 6/1/33 | Stock..... | Cheese and Mayonnaise. |
| 326. Columbine Creamery Co., of Ariz., Phoenix, Ariz. (Acquired by Kraft-Phenix Cheese Corp.). | 6/1/33 | Stock..... | Cheese and Mayonnaise. |

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|---|------------------------------------|
| | Date | Type | |
| 327. Weidman Ice Cr. Co., Inc., Olean, N. Y. (Acquired by Roberts Dairy, Inc.) | 8/13/33 | Certain assets merged with Roberts Dairy, Inc., in Buffalo only. | Ice Cream. |
| 328. Meyer Schurr Dairy Prod., Inc., Brooklyn, N. Y. (Acquired by Merit Dairy Prod. Corp.). | 7/26/33 | Certain assets merged with Merit Dairy Products Corp. | Wholesale Cream Cheese and Butter. |
| 329. Premier-Pabst Corp., Milwaukee, Wis. (Acquired by Kraft-Phenix Cheese Corp.). | 10/19/33 | Assets—Cheese business only; assets to Davis Chelle Co.; name changed to Pabst-ett Corp. | Cheese. |
| 330. Mose Deyo, Cairo, N. Y. (Acquired by General Ice Cream Corp.). | 12/14/23 | Assets merged with General Ice Cream Corp. | Ice Cream. |
| 331. Hodgson-Rowson Co., Ltd., Montreal, Can. (Acquired by Kraft-Phenix Cheese Co., Ltd.). | 12/14/33 | Stock | Cheese. |
| 332. Seaboard Creameries, Inc., Norfolk, Va. (Acquired by Southern Dairies, Inc.). | 11/28/33 | Assets—Ice cream business in Newport News, Va. only; combined with business of Southern Dairies. | Ice Cream. |
| 333. Lang's Ice Cream, Inc., Buffalo, N. Y. (Acquired by General Ice Cream Corp.). | 3/5/34 | Assets Combined with business of General Ice Cream Corp. | Ice Cream. |
| 334. Claire R. Quereau, Inc., Philadelphia, Pa. (Acquired by Kraft-Phenix Cheese Corp.). | 5/25/34 | Assets Sold to and combined with business of Kraft Associated Distributors, Inc. | Cheese. |
| 335. Allentown Cheese Co. (formerly C. S. Kleppinger Inc.), Allentown, Pa. (Acquired by Kraft-Phenix Cheese Corp.). | 6/6/34 | Assets Sold to and combined with business of Kraft Associated Distributors, Inc. | Cheese. |
| 336. Dutchland Farms, Inc., Brockton, Mass. (Acquired by General Ice Cream Corp.). | 6/29/34 | Assets—Certain Ice Cream business only. Combined with business of General Ice Cream Corp. | Ice Cream and Other Milk Products. |
| 337. Elmhurst Special Milk Co., Inc., Buffalo, N. Y. (Acquired by Dadds Alderney Dairy, Inc.). | 6/29/34 | Assets—Milk Distribution only. Combined with business of Dadds Alderney Dairy, Inc. | Milk. |
| 338. George E. Trask, Inc. East Hartford, Conn. (Acquired by Kraft-Phenix Cheese Corp.). | 6/30/34 | Assets Sold to, and combined with business of Kraft Associated Distributors, Inc. | Cheese. |
| 339. Plummer & Silverman, Inc., Providence, R. I. (Acquired by Kraft-Phenix Cheese Corp.). | 6/30/34 | Assets Sold to and combined with business of Kraft Associated Distributors, Inc. | Cheese. |
| 340. Maloney-Davidson Co., Inc., Louisville, Ky. (Acquired by M.-D Foods Service Co.). | 8/1/34 | Assets Sold to and combined with business of Kraft Associated Distributors, Inc. | Cheese. |
| 341. Pyburn Co., Atlanta, Ga. (Acquired by Kraft-Phenix Cheese Corp.). | 10/20/34 | Assets Sold to and combined with business of Kraft Associated Distributors, Inc. | Cheese. |
| 342. P. E. Sharpless Company, Philadelphia, Pa. (Acquired by Kraft-Phenix Cheese Corp.). | 10/31/34 | Assets Transferred to and combined with business of Kraft Associated Distributors, Inc. | Cheese and Dairy Products. |
| 343. The Harold Graham Dairies, Inc., Hartford, Conn. (Acquired by R. G. Miller & Sons, Inc.). | 1/7/35 | Assets Combined with business of R. G. Miller & Sons, Inc. | Milk and Milk Products. |
| 344. Caum Ice Cream Company, Altoona, Pa. (Acquired by Rieck-McJunkin Dairy Company). | 3/27/35 | Assets Combined with business of Rieck-McJunkin Dairy Company. | Ice Cream and Milk. |
| 345. Southland Dairy Products Company, Inc., Jacksonville, Fla. (Acquired by Southern Dairies, Inc.). | 4/25/35 | Assets Combined with business of Southern Dairies, Inc. | Ice Cream and Milk. |
| 346. Frank M. Ferguson Co., Inc., Oakland, Calif. (Acquired by Kraft Associated Distributors, Inc.). | 6/1/35 | Assets Of Cheese Distributing business only combined with business of Kraft Associated Distributors, Inc. | Cheese. |
| 347. Disher Cheese Co., Inc., Syracuse, N. Y. (Acquired by Kraft-Phenix Cheese Corp.). | 6/12/35 | Assets Sold to and Combined with business of Kraft Associated Distributors, Inc. | Cheese and other milk products. |

EXHIBIT I.—*List of dairy products companies whose capital stock or assets have been acquired, in whole or in part, by National Dairy Products Corporation, arranged in chronological order, from date of organization to November 15, 1938—Continued*

| Name & Location of Company Acquired | Acquisition | | Commodities Handled |
|---|-------------|---|-------------------------|
| | Date | Type | |
| 348. Colonial Ice Cream Co., East Providence, R. I. (Acquired by General Ice Cream Corp.). | 8/6/35 | Assets Transferred to new company same name. | Ice Cream. |
| 349. Colonial Ice Cream Co., Inc., Norfolk, Va. (Acquired by Southern Dairies, Inc.) | 11/7/35 | Assets — Combined with business of Southern Dairies, Inc. | Ice Cream. |
| 350. Utica Cheese Co., Inc., Utica, N. Y. (Acquired by Kraft-Phenix Cheese Corp.) | 11/12/35 | Assets—Sold to and combined with Kraft Associated Distributors, Inc. | Cheese. |
| 351. Gray Gables Dairy (Partnership), Kansas City, Mo. (Acquired by Chapman Dairy Co.) | 11/20/35 | Assets—Wholesale business only. Combined with business of Chapman Dairy Co. | Milk and Milk Products. |
| 352. Meyer's Frozen Delicacies, Inc., Buffalo, N. Y. (Acquired by Roberts' Dairy, Inc.) | 12/23/35 | Assets — Combined with business of Roberts' Dairy, Inc. | Ice Cream. |
| 353. Flint & Fulton, Inc., trading as "Monmouth Ice Cream Co.", Asbury Park, N. J. (Acquired by Breyer Ice Cream Co.) | 1/2/36 | Assets—Sold to and combined with business of Castles Ice Cream Co. | Ice Cream. |
| 354. Piedmont Ice Cream Co., Inc., Salisbury, N. C. (Acquired by Southern Dairies, Inc.) | 1/3/36 | Assets — Combined with business of Southern Dairies, Inc. | Ice Cream. |
| 355. Local Milk Products, Inc., Brooklyn, N. Y. (Acquired by Muller Dairies, Inc.) | 1/13/36 | Assets—Portion of business only combined with business of Muller Dairies, Inc. | Milk. |
| 356. Rutland Ice Cream Company, Rutland, Vermont (Acquired by General Ice Cream Corp.). | 1/28/36 | Assets—Transferred to new company Rutland Ice Cream Corp. | Ice Cream. |
| 357. The Annapolis Dairy Products Co., Annapolis, Md. (Acquired by The Annapolis Maid Ice Cream Co.). | 4/24/36 | Assets—Ice Cream business only sold to and combined with business of Southern Dairies, Inc. | Ice Cream. |
| 358. Yerdon Ice Cream Co., Utica, N. Y. (Acquired by General Ice Cream Corp.). | 5/28/36 | Stock..... | Ice Cream. |
| 359. Windsor Evaporated Milk Co., Cleveland, O. | 7/2/36 | Stock..... | Fluid Milk and Cream. |
| 360. Macomber Ice Cream Co., New Bedford, Mass. | 8/1/36 | Stock..... | Ice Cream. |
| 361. Bushway-Whiting Ice Cream Co., Boston, Mass. | 10/31/36 | Stock..... | Ice Cream. |
| 362. Maple Brook Dairy Co., Painesville, Ohio. | 4/1/37 | Stock..... | Fluid Milk and Cream. |

EXHIBIT NO. II.—*Dividends received by National Dairy Products Corporation from its subsidiaries*

| | 1935 | 1936 | 1937 |
|---|--------------|-------------|-------------|
| Akron Pure Milk Co., The..... | \$75,000.00 | \$41,000.00 | \$40,000.00 |
| Allen Ice Cream Company..... | | 15,000.00 | 10,612.50 |
| Arctic Dairy Products Co..... | | 110,500.00 | |
| Breakstone Brothers, Inc..... | 150,000.00 | 106,000.00 | 74,800.00 |
| Breyer Ice Cream Company..... | 900,000.00 | 780,000.00 | 743,050.00 |
| Breyer Ice Cream Co., Inc..... | 1,375,000.00 | 625,000.00 | 568,725.00 |
| Bushway-Whiting Ice Cream Co..... | | | 91,100.00 |
| Castles Ice Cream Company, Inc..... | | 17,600.00 | 7,000.00 |
| Chapel Ice Cream Company, Inc..... | 130,000.00 | 50,000.00 | 59,400.00 |
| Chestnut Farms-Chevy Chase Dairy Co..... | 270,000.00 | 457,500.00 | 286,350.00 |
| Clover Dairy Company, The..... | 76,500.00 | 34,500.00 | 22,800.00 |
| Clover Farm Dairy Company..... | 191,760.00 | 67,915.00 | 77,503.00 |
| Collis Products Company..... | | 6,000.00 | |
| Consolidated Dairy Products Co., Inc..... | | 53,000.00 | 35,750.00 |
| Consolidated Products Company..... | | 326,250.00 | 132,187.50 |
| Consumers Dairy Company..... | 250,000.00 | 110,000.00 | 79,150.00 |
| Dairyland, Inc..... | | 2,700.00 | |
| Detroit Creamery Company..... | | 230,520.30 | 120,000.00 |
| Eblin? Creamery Company..... | 365,500.00 | 119,000.00 | 12,750.00 |
| Empire Account Corporation..... | | 55,000.00 | 17,885.00 |
| Ewing-Von Allmen Dairy Co..... | | 13,125.00 | |
| Fairfield Western Maryland Dairy Corporation..... | 120,762.00 | 343,914.00 | 157,981.50 |

EXHIBIT No. II.—*Dividends received by National Dairy Products Corporation from its subsidiaries—Continued*

| | 1935 | 1936 | 1937 |
|------------------------------------|---------------|---------------|--------------|
| Findlay Evaporated Milk Co. | | \$23,000.00 | |
| Food Sales Company, Inc. | | 32,000.00 | \$52,604.00 |
| Franklin Ice Cream Corp. | \$215,000.00 | 82,500.00 | |
| Frechtling Dairy Company | 130,000.00 | 50,000.00 | 57,500.00 |
| General Ice Cream Corporation | 2,061,681.65 | 774,269.25 | 640,669.85 |
| Harding Cream Company, Inc. | | | 50,000.00 |
| Highland Dairy Farms Company | | 44,000.00 | |
| Hiland Dairy Company | 6,000.00 | 27,500.00 | 30,000.00 |
| Hydrox Corporation | 220,000.00 | 82,500.00 | 25,300.00 |
| Hydrox Ice Cream Company | 39,900.00 | 13,300.00 | |
| Hydrox Ice Cream Company, Inc. | 200,000.00 | 185,000.00 | 43,350.00 |
| Keystone Dairy Company | | 11,500.00 | 4,360.00 |
| Kraft-Phenix Cheese Corp. | 5,300,000.00 | 3,850,000.00 | 2,983,000.00 |
| Luick Dairy Company | | | 5,000.00 |
| Luick Ice Cream Company | 240,000.00 | 6,000.00 | |
| Matthews-Frechtling Dairy Co., The | 50,000.00 | 61,000.00 | 29,500.00 |
| Merchants Cold Storage Company | 210,000.00 | 90,000.00 | 93,500.00 |
| Muller Dairies, Inc. | 265,000.00 | 47,000.00 | 10,000.00 |
| Nashville Pure Milk Company | 125,000.00 | 5,000.00 | |
| National Butter Company of Iowa | | | 48,050.00 |
| Ohio Clover Leaf Dairy Company | | 61,000.00 | 73,200.00 |
| Ovson Egg Company | 142,000.00 | 39,050.00 | 71,000.00 |
| Quality Ice Cream Company | | 2,500.00 | |
| Rieck-McJunkin Dairy Company | | 264,000.00 | 290,000.00 |
| J. D. Roszell Company | 110,000.00 | 110,000.00 | 68,900.00 |
| St. Louis Dairy Company | 185,000.00 | | |
| Sanitary Milk Company, The | 40,000.00 | 31,000.00 | 24,850.00 |
| Sheffield By-Products Company | 331,400.00 | 351,284.00 | 224,026.40 |
| Sheffield Condensed Milk Co., Inc. | 609,800.00 | 822,204.00 | 365,225.40 |
| Sheffield Farms Company, Inc. | 1,870,840.00 | 1,276,848.30 | |
| Southern Dairies, Inc. | | 277,779.05 | 169,194.90 |
| Sugar Creek Creamery Company | 100,000.00 | 75,000.00 | 148,495.00 |
| Supplee-Wills-Jones Milk Company | 1,563,655.00 | 1,023,174.25 | 193,757.25 |
| Telling-Belle Vernon Co., The | 748,605.00 | 426,704.85 | 287,464.32 |
| Thompson Ice Cream Company | | 39,000.00 | 31,920.00 |
| Tri-State Butter Company, The | 200,000.00 | 65,000.00 | 85,000.00 |
| Union Ice Cream Company (Tenn.) | 20,000.00 | 4,000.00 | |
| Youngstown Sanitary Milk Company | 24,000.00 | 24,000.00 | 47,300.00 |
| Total | 18,912,403.65 | 13,841,638.00 | 8,690,211.62 |

EXHIBIT No. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938*

FLUID MILK

| <i>Name of Subsidiary</i> | <i>Location of Plants</i> |
|--|---------------------------|
| Akron Pure Milk Co. | Akron, Ohio. |
| Chapman Dairy Company | Kansas City, Missouri. |
| Chestnut Farms-Chevy Chase Dairy Company | Washington, D. C. |
| Clover Dairy Company | Wilmington, Delaware. |
| Clover Farm Dairy Co. | Memphis, Tennessee. |
| Consumers Dairy Company | Union City, New Jersey. |
| Deerfoot Farms Company | Southboro, Massachusetts. |
| Detroit Creamery Company | Detroit, Michigan. |
| | Grand Rapids, Michigan. |
| | Ann Arbor, Michigan. |
| | Lansing, Michigan. |
| | Flint, Michigan. |
| | Pontiac, Michigan. |
| Ebling Creamery Company | Detroit, Michigan. |
| Ewing-Von Allmen Dairy Co. | Louisville, Kentucky. |
| Fairfield Western Maryland Dairy Corporation | Baltimore, Maryland. |
| Frechtling Dairy Company | Hamilton, Ohio. |
| Brighton Place Dairy Company, Inc. | Rochester, New York. |
| Bryant & Chapman Company | Hartford, Connecticut. |
| Dodds Alderney Dairy, Inc. | Buffalo, New York. |
| Erie County Milk Assn. | Erie, Pennsylvania. |

EXHIBIT No. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

FLUID MILK—continued

| <i>Name of Subsidiary</i> | <i>Location of Plants</i> |
|---------------------------------------|-----------------------------|
| R. G. Miller & Sons, Inc.----- | Hartford, Connecticut. |
| Hiland Dairy Company----- | Newport, Kentucky. |
| Luick Dairy Company----- | Milwaukee, Wisconsin. |
| Maple Brook Dairy Company----- | Painesville, Ohio. |
| Matthews-Frechting Dairy Company----- | Cincinnati, Ohio. |
| Muller Dairies, Inc.----- | New York, New York. |
| Nashville Pure Milk Company----- | Nashville, Tennessee. |
| Ohio Clover Leaf Dairy Company----- | Toledo, Ohio. |
| Rieck-McJunkin Dairy----- | Pittsburgh, Pennsylvania. |
| | Altoona, Pennsylvania. |
| | Butler, Pennsylvania. |
| | Charleroi, Pennsylvania. |
| | Meadville, Pennsylvania. |
| | Newcastle, Pennsylvania. |
| Roszell Company, J. D.----- | Peoria, Illinois. |
| St. Louis Dairy Co.----- | St. Louis, Missouri. |
| Sanitary Milk Co.----- | Canton, Ohio. |
| Sheffield Farms Company, Inc.----- | New York, New York: |
| | Webster Ave. |
| | 524 W. 57th St. |
| | 623 W. 125th St. (Harlem). |
| | Fulton St. |
| | Jamaica, New York. |
| | New Canaan, Connecticut. |
| | West End, New Jersey. |
| Southern Dairies, Inc.----- | Rocky Mount, N. Carolina. |
| Supplee-Wills-Jones Milk Company----- | Philadelphia, Pennsylvania: |
| | 1523 N. 26th St. |
| | 4701 Lancaster Ave. |
| | Camden, New Jersey. |
| Telling-Belle Vernon Co.----- | Cleveland, Ohio. |
| Youngstown Sanitary Milk Co.----- | Youngstown, Ohio. |

FLUID MILK RECEIVING PLANTS

| | |
|---|----------------------------|
| Breyer Ice Cream Company (Del.)----- | Kenton, Delaware. |
| | Millington, Maryland. |
| | Ridgely, Maryland. |
| | Port Royal, Pennsylvania. |
| | Millerstown, Pennsylvania. |
| | Elton, New York. |
| | Houghton, New York. |
| | Franklinville, New York. |
| Chapman Dairy Company----- | Butler, Missouri. |
| Chestnut Farms-Chevy Chase Dairy Company----- | Frederick, Maryland. |
| Consumers Dairy Company----- | Earlville, New York. |
| | Hancock, New York. |
| | Spencer, New York. |
| Detroit Creamery Company----- | Ovid, Michigan. |
| | Brighton, Michigan. |
| | Fowlerville, Michigan. |
| | Vassar, Michigan. |
| | Willis, Michigan. |
| | Alma, Michigan. |
| | Allendale, Michigan. |
| Ebling Creamery Company----- | Grass Lake, Michigan. |
| | Saline, Michigan. |
| | Clinton, Michigan. |
| | Hillsdale, Michigan. |
| | Brown City, Michigan. |
| | Maybee, Michigan. |
| | Parma, Michigan. |

EXHIBIT No. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

FLUID MILK RECEIVING PLANTS—continued

| <i>Name of Subsidiary</i> | <i>Location of Plants</i> |
|---|--|
| Ewing-Von Allmen Dairy Company----- | Madison, Indiana. Taylorsville, Kentucky. |
| Fairfield Western Maryland Dairy Corporation----- | Brodbeck, Pennsylvania. Churchville, Pennsylvania. Woodbine, Pennsylvania. Detour, Maryland. Dublin, Maryland. Fowblesburg, Maryland. Mt. Airy, Maryland. Pylesville, Maryland. New Windsor, Maryland. Taneytown, Maryland. Union Bridge, Maryland. Unionville, Maryland. |
| Findlay Evaporated Milk Company----- | Attica, Ohio. |
| Franklin Ice Cream Corporation----- | Tonganoxie, Kansas. |
| General Ice Cream Corporation----- | Leon, New York. North Bangor, New York. Fort Covington, New York. |
| Bryant & Chapman Company----- | Cambridge, Vermont. |
| Ohio Evaporated Milk Company----- | East Rochester, Ohio. |
| Rieck-McJunkin Dairy Company----- | Bedford, Pennsylvania. Indiana, Pennsylvania. Linesville Pennsylvania. Punxsutawney, Pennsylvania. |
| J. D. Roszell Company----- | Pontiac, Illinois. |
| St. Louis Dairy Company----- | Highland, Illinois. Sparta, Illinois. Venedy, Illinois. Altamont, Illinois. Hecker, Illinois. Coffeen, Illinois. Vandalia, Missouri. |
| Sheffield Condensed Milk Company, Inc.----- | Rising Sun, Maryland. Harkness, New York. Heuvelton, New York. Ellenburg, New York. Lisbon, New York. Malone, New York. |
| Sheffield Farms Company, Inc.----- | Amenia, New York. Brainbridge, New York. Billings, New York. Black River, New York. Blooming Grove, New York. Bloomville, New York. Boonville, New York. Bullville, New York. Cambridge, New York. Center Lisle, New York. Central Bridge, New York. Clyde, New York. Cobleskill, New York. Cooperstown, New York. Davenport Center, New York. Douglass Crossing, New York. East Worcester, New York. Eaton, New York. Edmeston, New York. Grand Gorge, New York. |

EXHIBIT No. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

FLUID MILK RECEIVING PLANTS—continued

Name of Subsidiary

Location of Plants

| | |
|--|---|
| Sheffield Farms Company, Inc.----- | Halcottville, New York. Hillsdale, New York. Homer, New York. Interlaken, New York. Lacona, New York. Limerick, New York. Locke, New York. MacDougall, New York. Moravia, New York. Mt. Upton, New York. New Berlin, New York. North Chatham, New York. Oneonta, New York. Pawling, New York. Perinton, New York. Portlandville, New York. Pulaski, New York. Richmondville, New York. Roxbury, New York. Seward, New York. Smithboro, New York. Smiths Basin, New York. Smyrna, New York. So. Kortright, New York. Stamford, New York. Stephentown, New York. Throop, New York. Truxton, New York. Tully, New York. Walton, New York. West Edmeston, New York. Woods Corners, New York. Bellefonte, Pennsylvania. Canton, Pennsylvania. Coburn, Pennsylvania. Cowley, Pennsylvania. Foster, Pennsylvania. Howard, Pennsylvania. Lakewood, Pennsylvania. Lewisburg, Pennsylvania. Middleburg, Pennsylvania. Mill Hall, Pennsylvania. New Milford, Pennsylvania. Roaring Branch, Pennsylvania. Starrucca, Pennsylvania. Spring Mills, Pennsylvania. Tioga, Pennsylvania. Ulster, Pennsylvania. Wysox, Pennsylvania. Hamburg, New Jersey. Johnsonburg, New Jersey. Charlotte, Vermont. Florence, Vermont. Middlebury, Vermont. New Haven Jet., Vermont. Vergennes, Vermont. Whiting, Vermont. |
| Southern Dairies, Inc., Sugar Creek Creamery-- | Gallion, Alabama. New Albany, Indiana. Jonesboro, Arkansas. Prescott, Arkansas. |

EXHIBIT No. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

FLUID MILK RECEIVING PLANTS—continued

| <i>Name of Subsidiary</i> | <i>Location of Plants</i> |
|--|--|
| Southern Dairies, Inc., Sugar Creek Creamery.. | Poplar Bluff, Missouri. Thayer, Missouri. |
| Supplee-Willis-Jones Milk Company..... | Bedford, Pennsylvania. Centerville, Pennsylvania. Chambersburg, Pennsylvania. Duncannon, Pennsylvania. Huntingdon, Pennsylvania. Leaman Place, Pennsylvania. Lewistown, Pennsylvania. Mercersburg, Pennsylvania. Red Hill, Pennsylvania. Waynesboro, Pennsylvania. Zieglersville, Pennsylvania. Chestertown, Pennsylvania. Kennedyville, Maryland. Princess Anne, Maryland. Hagerstown, Maryland. Mt. Pleasant, Delaware. Nassau, Delaware. Townsend, Delaware. |
| Telling-Belle Vernon Co..... | Beloit, Ohio. Jefferson, Ohio. Rome, Ohio. Wellington, Ohio. |

BUTTER

| | |
|--------------------------------------|---|
| National Butter Company of Iowa..... | Dubuque, Iowa. |
| Rieck-McJunkin Dairy Company..... | Huntington, Pennsylvania. |
| Sheffield Farms Company, Inc..... | Hobart, New York. |
| Sugar Creek Creamery Company..... | Danville, Illinois. Pana, Illinois. Louisville, Kentucky. Cape Girardeau, Missouri. Kansas City, Missouri. Marshfield, Missouri. St. Louis, Missouri. Indianapolis, Indiana. Evansville, Indiana. Bristol, South Dakota. Knoxville, Tennessee. Omaha, Nebraska. O'Neill, Nebraska. Salina, Kansas. |
| The Tri-State Butter Company..... | Cincinnati, 950 Kenyon Ave., Ohio. |

CHEESE

| | |
|--------------------------------------|---|
| Breakstone Bros., Inc..... | New York, New York. Walton, New York. Franklinville, New York. |
| National Cheese Company..... | Chicago, Illinois. Campbellsport, Wisconsin. Lomira, Wisconsin. West De Pere, Wisconsin. |
| National Creamery Company..... | Somerville, Massachusetts. |
| Kraft-Phenix Cheese Corporation..... | Chicago, Illinois. Aledo, Illinois. Freeport, Illinois. Marshall, Illinois. Milledgeville, Illinois. Stockton, Illinois. |

EXHIBIT No. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

CHEESE—continued

| <i>Name of Subsidiary</i> | <i>Location of Plants</i> |
|--------------------------------------|--|
| Kraft-Phenix Cheese Corporation..... | Bloomfield, Indiana. Dale, Indiana. Marshall, Indiana. Paoli, Indiana. Ridgeville, Indiana. Salem, Indiana. Sharpsville, Indiana. Shirley, Indiana. Sullivan, Indiana. Summitville, Indiana. Sweetser, Indiana. Hartville, Missouri. Mansfield, Missouri. Mountain Grove, Missouri. Moberly, Missouri. Nevada, Missouri. Uniontown, Alabama. Carlisle, Arkansas. Hope, Arkansas. Searcy, Arkansas. Marion, Arkansas. Emporia, Kansas. Larned, Kansas. McPherson, Kansas. Oswego, Kansas. Lawrenceburg, Kentucky. Owenton, Kentucky. Booneville, Mississippi. Brooksville, Mississippi. Calhoun City, Mississippi. Columbus, Mississippi. Corinth, Mississippi. Houston, Mississippi. Newton, Mississippi. Water Valley, Mississippi. Winona, Mississippi. Gallatin, Tennessee. McEwen, Tennessee. Surgoinville, Tennessee. Glen Karn, Ohio. Clare, Michigan. Gladwin, Michigan. Pinconning, Michigan. Scottville, Michigan. Antigo, Wisconsin. Beaver Dam, Wisconsin. Green Bay, Wisconsin. Moorefield, West Virginia. Jersey City, New Jersey. Kent, Washington. Manteca, California. Los Angeles, California. San Francisco, California. Tulare, California. Aberdeen, Idaho. Arco, Idaho. Blackfoot, Idaho. Carey, Idaho. Grace, Idaho. Lewisville, Idaho. Paul, Idaho. |

EXHIBIT NO. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

CHEESE—continued

| <i>Name of Subsidiary</i> | <i>Location of Plants</i> |
|--------------------------------------|--|
| Kraft-Phenix Cheese Corporation..... | Pocatello, Idaho. Ririe, Idaho. Rockland, Idaho. Rupert, Idaho. Denison, Texas. Bonham, Texas. Cameron, Texas. Grapeland, Texas. Sulphur Springs, Texas. Victoria, Texas. Winnsboro, Texas. Atlanta, Georgia. Shawnee, Oklahoma. Sulphur, Oklahoma. Tigard, Oregon. Greenwood, South Carolina. South Edmeston, New York. West Jefferson, North Carolina. |
| Cloverleaf Creameries, Inc..... | Decatur, Indiana. Huntington, Indiana. |
| Miller Richardson Co., Inc..... | Western (Webster Hill Factory), New York. Annsville (Blake Factory), New York. Verona (Churchville Factory), New York. Western (Brick Hill Factory), New York. Western (Hillside Factory), New York. Floyd (Camraden Factory), New York. Rome (Tuescher Factory), New York. Verona (Schraeder Factory), New York. Verona (New London Factory), New York. Hammond (King Factory), New York. Alexandria (Alexandria Factory), New York. Theresa (Howland Factory), New York. Alexandria (Creek Road Factory), New York. Alexandria (Thistle Factory), New York. Clayton (Bluff Factory), New York. Clayton (Wetterhan Factory), New York. Pickney (Barnes Corners Factory), New York. Montague (Rector Factory), New York. Champion (South Champion Factory), New York. Lowville, New York. |
| Pabst-ett Corporation..... | Plymouth, Wisconsin. |
| C. A. Straubel Co..... | Pulaski, Wisconsin. |

EXHIBIT No. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

ICE CREAM

*Name of Subsidiary**Location of Plants*

| | |
|--|--------------------------------|
| Allen Ice Cream Co.----- | Rockford, Illinois. |
| Breyer Ice Cream Company (Del.)----- | Philadelphia, Pennsylvania. |
| | Newark, New Jersey. |
| Breyer Ice Cream Company, Inc.----- | Long Island City, New York. |
| Bushway-Whiting Ice Cream Co.----- | Sommerville, Massachusetts. |
| Castles Ice Cream Co.----- | Garfield, New Jersey. |
| Consolidated Dairy Products Co., Inc.----- | Long Island City, New York. |
| Detroit Creamery Company----- | Detroit, Michigan. |
| | Lansing, Michigan. |
| | Kalamazoo, Michigan. |
| | Grand Rapids, Michigan. |
| Franklin Ice Cream Corporation----- | Kansas City, Missouri. |
| General Ice Cream Corporation----- | Schenectady, New York. |
| | Albany, New York. |
| | Amsterdam, New York. |
| | Binghamton, New York. |
| | Buffalo, New York. |
| | 296 Connecticut St. |
| | 231 Elm St. |
| | Elmira, New York. |
| | Geneva, New York. |
| | Jamestown, New York. |
| | Malone, New York. |
| | Poughkeepsie, New York. |
| | Rochester, New York. |
| | Syracuse, New York. |
| | Utica, New York. |
| | Watertown, New York. |
| | Worcester, New York. |
| | Springfield, Massachusetts. |
| | East Cambridge, Massachusetts. |
| | Lawrence, Massachusetts. |
| | New Haven, 201 Hazel, Con- |
| | necticut. |
| | Bridgeport, Connecticut. |
| | Hartford, Connecticut. |
| | New Haven, 110 Bristol, Con- |
| | necticut. |
| | South Manchester, Connecticut. |
| | Pawtucket, Rhode Island. |
| | Providence, Rhode Island. |
| | Burlington, Vermont. |
| | Manchester, Vermont. |
| | Bangor, Maine. |
| | Portland, Maine. |
| | Erie, Pennsylvania. |
| Jersey Ice Cream Co.----- | Lawrence, Massachusetts. |
| Plymouth Rock Ice Cream Co.----- | North Abbingdon, Massachu- |
| | setts. |
| Sagal Lou Products Co.----- | New Haven, Connecticut. |
| Wagars', Inc.----- | Troy, New York. |
| The Harding Company----- | Omaha, Nebraska. |
| Hydrox Corporation----- | Chicago, Illinois. |
| Hydrox Ice Cream Company, Inc.----- | Long Island City, New York. |
| Luick Ice Cream Company----- | Milwaukee, Wisconsin. |
| Macomber Ice Cream Company----- | New Bedford, Massachusetts. |
| Ohio Clover Leaf Dairy Company----- | Toledo, Ohio. |
| Quality Ice Cream Company----- | Cleveland, Ohio. |

EXHIBIT No. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

ICE CREAM—continued

| <i>Name of Subsidiary</i> | <i>Location of Plants</i> |
|---------------------------------------|--|
| Southern Dairies, Inc.----- | Washington, D. C. Richmond, Virginia. Norfolk, Virginia. Greensboro, N. Carolina. Wilson, N. Carolina. Charlotte, N. Carolina. Asheville, N. Carolina. Winston-Salem, N. Carolina. Atlanta, Georgia. Cambria, Virginia. Chattanooga, Tennessee. Knoxville, Tennessee. Birmingham, Alabama. Montgomery, Alabama. Mobile, Alabama. Jacksonville, Florida. Miami, Florida. West Palm Beach, Florida. St. Petersburg, Florida. |
| Supplee-Wills-Jones Milk Company----- | Philadelphia, Pennsylvania. |
| Telling-Belle Vernon Co.----- | Cleveland, Ohio. Akron, Ohio. Columbus, Ohio. Dayton, Ohio. Wheeling, W. Virginia. |
| Union Ice Cream Company----- | Nashville, Tennessee. |

EVAPORATED AND CONDENSED MILK

| | |
|------------------------------------|--|
| Consolidated Products Company----- | Danville, Illinois. Chicago, Illinois. Champaign, Illinois. Galesburg, Illinois. Pana, Illinois. Peoria, Illinois. Akron, Ohio. Cincinnati, Ohio. New Bremen, Ohio. Washington Court House, Ohio. Des Moines, Iowa. Davenport, Iowa. Evansville, Indiana. Rochester, Indiana. Vincennes, Indiana. Marshfield, Missouri. St. Louis, Missouri. Carthage, Missouri. Hutchinson, Kansas. Kansas City, Kansas. Sabetha, Kansas. Topeka, Kansas. Winfield, Kansas. Wichita, Kansas. Lincoln, Nebraska. Omaha, Nebraska. Bristol, S. Dakota. Bismarck, N. Dakota. Grand Forks, N. Dakota. Jamestown, N. Dakota. Louisville, Kentucky. Oklahoma City, Oklahoma. |
|------------------------------------|--|

EXHIBIT NO. III.—*Operating subsidiaries of National Dairy Products Corp., with location of their plants, classified as to principal products received, processed, manufactured or handled, as of November 15, 1938—Continued*

EVAPORATED AND CONDENSED MILK—continued

| <i>Name of Subsidiary</i> | <i>Location of Plants</i> |
|---|---|
| Consolidated Products Company..... | Vinita, Oklahoma. Portales, New Mexico. Trinidad, Colorado. Sacramento, California. Tulare, California. |
| Findlay Evaporated Milk Company..... | Findlay, Ohio. |
| Keystone Dairy Company..... | Lakeville, New York. Nunda, New York. Portville, New York. Pottsdam, New York. |
| Kraft-Phenix Cheese Corporation..... | Kendallville, Indiana. Wittenberg, Wisconsin. |
| Ohio Evaporated Milk Company..... | Lockwood, Ohio. |
| Sheffield Condensed Milk Co., Inc..... | Canton, New York. Chateaugay, New York. |
| Windsor Evaporated Milk Company..... | Carrollton, Ohio. |
| Breakstone Bros., Inc..... | New York, New York. |
| Collis Products Co..... | Jersey City, New Jersey. St. Paul, Minnesota. |
| Kraft-Phenix Cheese Corporation..... | Orleans, Nebraska. Wausau, Wisconsin. Hartford, Wisconsin. Wittenberg, Wisconsin. |
| Ohio Evaporated Milk Company..... | Farmdale, Ohio. |
| Rieck-McJunkin Dairy Company..... | Springboro, Pennsylvania. |
| Rock Creek Dairy, Inc..... | Walkersville, Maryland. |
| Sheffield By-Products Company, Inc..... | Hobart, New York. |
| Ward Dry Milk Company..... | St. Paul, Minnesota. Albany, Minnesota. Albert Lea, Minnesota. Hutchinson, Minnesota. Akron, New York. |

MAP SHOWING LOCATION OF MILK AND DAIRY PRODUCTS PLANTS
OWNED OR CONTROLLED BY
NATIONAL DAIRY PRODUCTS CORP.
1938

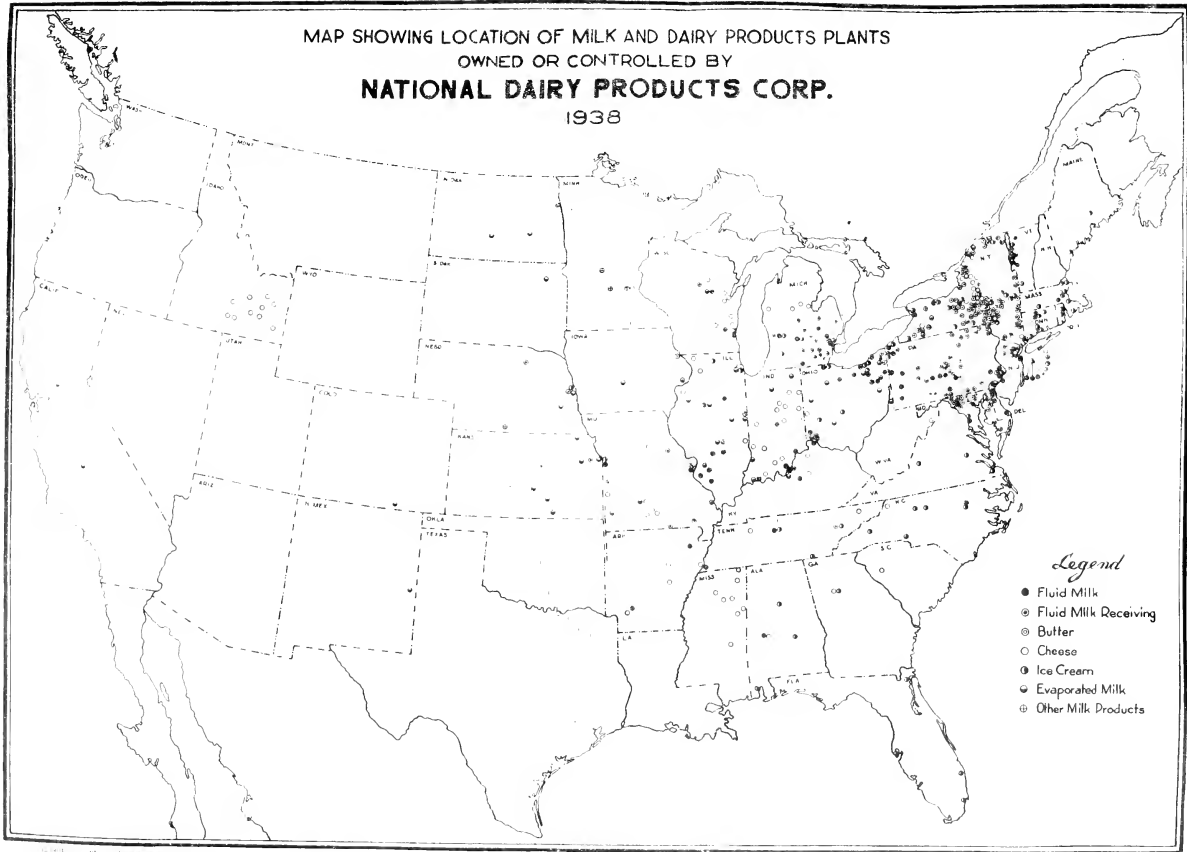


EXHIBIT NO. V.—A consolidated statement showing the total sales (quantity, in gallons or pounds, and the dollar value) by parent company and by its subsidiary and affiliated companies of milk, cream, ice cream, butter, cheese, and other dairy products during each calendar year 1936, 1937 and first 6 months of 1938 (excluding inter-company sales)

| Kind of Product | Unit | Year 1936 | | Year 1937 | | 1st 6 Mos. 1938 | |
|------------------------------------|------------|-------------|-----------------|-------------|------------------|-----------------|-----------------|
| | | Quantity | Amount | Quantity | Amount | Quantity | Amount |
| Milk | Gallons .. | 206,729,765 | \$98,810,842.46 | 204,486,212 | \$100,125,372.33 | 98,670,712 | \$48,239,957.46 |
| Fluid Milk Specialties. | Gallons .. | 19,273,954 | 5,271,703.04 | 19,966,121 | 6,309,617.50 | 9,794,564 | 2,715,770.68 |
| Cream | Gallons .. | 10,319,579 | 18,700,959.26 | 10,908,394 | 20,140,163.02 | 5,347,961 | 9,821,493.72 |
| Ice Cream | Gallons .. | 43,684,471 | 46,314,156.22 | 47,484,967 | 50,983,680.46 | 20,251,411 | 21,882,872.26 |
| Ice Cream Mix .. | Gallons .. | 669,860 | 502,906.10 | 732,190 | 599,126.44 | 419,100 | 282,951.89 |
| Cheese | Pounds .. | 274,524,362 | 62,826,800.62 | 291,166,676 | 68,090,395.12 | 143,630,991 | 31,451,584.18 |
| Butter | Pounds .. | 97,866,632 | 33,401,090.43 | 102,139,874 | 35,907,174.84 | 51,117,116 | 15,361,893.59 |
| Malted Milk .. | Pounds .. | 3,040,271 | 589,665.96 | 2,496,064 | 507,999.45 | 1,564,467 | 309,612.00 |
| Milk By-Products: | | | | | | | |
| Whole & Skim Plain Condensed Milk. | Gallons .. | 2,341,439 | 669,530.10 | 2,583,572 | 692,534.74 | 1,000,601 | 237,150.74 |
| Whole & Skim Sweet Condensed Milk. | Pounds .. | 18,469,082 | 1,048,363.11 | 21,120,368 | 1,091,616.96 | 10,647,907 | 527,354.34 |
| Evaporated Milk. | Cases ... | 2,984,833 | 7,862,775.68 | 2,731,822 | 7,656,231.04 | 1,339,127 | 3,592,811.36 |
| Powder & Other By-Products. | Pounds .. | 124,515,804 | 7,771,907.84 | 105,259,973 | 5,870,030.18 | 58,475,000 | 2,558,293.16 |
| Totals..... | ----- | ----- | 283,770,700.82 | ----- | 297,973,942.08 | ----- | 136,981,745.38 |

NOTE.—The operations of foreign subsidiaries are not included in the above figures.

EXHIBIT NO. VI.—Average return per gallon of 4 percent butterfat milk to members of Maryland Cooperative Milk Producers Inc.; prices paid to the cooperative organization for classes I and II milk; and retail prices, January 1986 to June 1938.

| | (A) | (B) | (C) | |
|---------------------|---|---|---|---------|
| | Weighted Average Price Received by Producers for all Milk | Prices Paid by distributor to Co-op. for all Milk | Retail Prices Received by Dist. Qt. Bottles | |
| | Gal. 4% Milk | Gal. 4% Milk | Per Gal. | Per Qt. |
| 1936 | | | | |
| January..... | 22.32¢ | 23¢ | 48¢ | 12¢ |
| February..... | 21.97¢ | 23¢ | 48¢ | 12¢ |
| March..... | 21.69¢ | 23¢ | 48¢ | 12¢ |
| April..... | 21.72¢ | 23¢ | 48¢ | 12¢ |
| May..... | 20.69¢ | 23¢ | 48¢ | 12¢ |
| June..... | 20.83¢ | 23¢ | 48¢ | 12¢ |
| July..... | 21.63¢ | 23¢ | 48¢ | 12¢ |
| August..... | 21.44¢ | 23¢ | 48¢ | 12¢ |
| September..... | 21.62¢ | 23¢ | 48¢ | 12¢ |
| October..... | 21.86¢ | 23¢ | 48¢ | 12¢ |
| November 1-15..... | 22.51¢ | 23¢ | 48¢ | 12¢ |
| November 16-30..... | 24.85¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| December..... | 24.3¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| 1937 | | | | |
| January..... | 24.15¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| February..... | 24.3¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| March..... | 24.05¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| April..... | 24.04¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| May..... | 23.61¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| June..... | 23.66¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| July..... | 24.19¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| August..... | 23.81¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| September..... | 24.06¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| October..... | 24.65¢ | { Class I—27.5¢ Class II—19¢ | 52¢ | 13¢ |
| November..... | 25.05¢ | { Class I—26.9844¢ Class II—19¢ | 52¢ | 13¢ |
| December..... | 24.83¢ | { Class I—26.9844¢ Class II—19¢ | 52¢ | 13¢ |
| 1938 | | | | |
| January..... | 24.17¢ | { Class I—26.9844¢ Class II—19¢ | 52¢ | 13¢ |
| February..... | 24.25¢ | { Class I—26.9844¢ Class II—19¢ | 52¢ | 13¢ |
| March..... | 23.92¢ | { Class I—26.9844¢ Class II—19¢ | 52¢ | 13¢ |
| April..... | 23.65¢ | { Class I—26.9844¢ Class II—19¢ | 52¢ | 13¢ |
| May..... | 21.71¢ | { Class I—26.9844¢ Class II—19¢ | 52¢ | 13¢ |
| June..... | 21.94¢ | { Class I—26.9844¢ Class II—19¢ | 52¢ | 13¢ |

Column A represents the weighted average price received by producers, f. o. b. Baltimore City, for all milk sold through Maryland Cooperative Milk Producers, Inc. These figures were computed by dividing the amount received by the number of gallons sold adjusted to 4 percent milk. Shipping and cooling charges for delivery to Baltimore were between 3¢ and 3½¢ per gallon. These charges are deducted from prices shown in column A before payment is made to producers.

Column B shows prices paid to the Maryland Cooperative Milk Producers, Inc., by distributors for 4 percent milk.

Column C represents the recognized retail house-to-house price for regular grade fluid 4 percent milk delivered in quart bottles.

EXHIBIT VII.—Prices paid by distributors for class I milk F. O. B. city plants to be sold in fluid form, and prices charged consumers—1919 to October, 1938, inclusive

| Year | Prices Paid By Distributors (Per Quart) | Retail Prices (Per Quart) | Prices Paid By Distributors (Per Quart) | Retail Prices (Per Quart) |
|-------|---|---------------------------|---|---------------------------|
| | Boston | | Philadelphia | |
| | Cents | Cents | Cents | Cents |
| 1919 | 9.27 | 15.81 | 7.74 | 13.10 |
| 1920 | 9.18 | 17.28 | 8.21 | 14.25 |
| 1921 | 8.51 | 15.58 | 6.32 | 12.46 |
| 1922 | 8.06 | 13.58 | 5.87 | 11.25 |
| 1923 | 8.06 | 14.33 | 7.05 | 12.46 |
| 1924 | 7.22 | 13.38 | 6.79 | 12.00 |
| 1925 | 7.85 | 14.08 | 6.84 | 12.00 |
| 1926 | 8.28 | 14.46 | 6.94 | 12.25 |
| 1927 | 8.41 | 14.67 | 7.55 | 13.00 |
| 1928 | 8.51 | 15.18 | 7.55 | 13.00 |
| 1929 | 8.73 | 15.42 | 7.74 | 13.33 |
| 1930 | 8.54 | 15.24 | 7.50 | 12.95 |
| 1931 | 6.24 | 12.75 | 6.41 | 11.67 |
| 1932 | 5.40 | 10.46 | 4.90 | 10.00 |
| 1933 | 5.61 | 10.98 | 4.84 | 9.92 |
| 1934 | 6.41 | 11.29 | 5.59 | 11.00 |
| 1935 | 6.82 | 12.38 | 5.59 | 11.00 |
| 1936 | 6.58 | 12.49 | 5.59 | 11.22 |
| 1937 | 6.17 | 12.50 | 6.19 | 12.00 |
| 1938: | | | | |
| Jan. | 6.82 | 13.00 | 6.19 | 12.00 |
| Feb. | 6.84 | 13.00 | 6.19 | 12.00 |
| March | 6.86 | 13.00 | 6.19 | 12.00 |
| April | 6.86 | 13.00 | 6.19 | 12.00 |
| May | 6.88 | 13.00 | 6.08 | 12.00 |
| June | 6.88 | 13.00 | 6.02 | 12.00 |
| July | 6.88 | 13.00 | 6.02 | 12.00 |
| Aug. | 6.88 | 13.00 | 5.998 | 12.00 |
| Sept. | 6.88 | 13.00 | 5.98 | 12.00 |
| Oct. | 6.88 | 13.00 | 5.98 | 12.00 |

| | Baltimore | | Washington, D. O. | |
|--------|-----------|------|-------------------|------|
| | | | | |
| 1919 | 8.51 | 15.3 | | 15.9 |
| 1920 | 8.34 | 15.9 | 9.03 | 16.9 |
| 1921 | 6.62 | | 8.06 | 13.8 |
| 1922 | 5.96 | 12.1 | 6.56 | 13.3 |
| 1923 | 7.16 | 13.1 | 7.42 | 14.2 |
| 1924 | 7.10 | 13.0 | 7.20 | 14.3 |
| 1925 | 7.18 | 12.9 | 7.10 | 14.2 |
| 1926 | 7.22 | 13.3 | 7.35 | 14.6 |
| 1927 | 7.63 | 14.0 | 7.63 | 15.0 |
| 1928 | 7.63 | 14.0 | 7.70 | 14.9 |
| 1929 | 7.63 | 14.0 | 7.61 | 14.5 |
| 1930 | 7.61 | 11.0 | 7.65 | 14.5 |
| 1931 | 6.47 | 12.5 | 7.33 | 14.1 |
| 1932 | 5.53 | 11.3 | 6.51 | 13.3 |
| 1933 | 4.69 | 10.7 | 5.998 | 12.6 |
| 1934 | 5.40 | 11.0 | 5.93 | 12.9 |
| 1935 | 5.12 | 12.0 | 5.85 | 13.0 |
| 1936 | 5.25 | 12.1 | 6.13 | 13.2 |
| 1937 | 6.24 | 13.0 | 6.94 | 14.0 |
| 1938: | | | | |
| Jan. | 6.13 | 13.0 | 6.77 | 14 |
| Feb. | 6.13 | 13.0 | 6.77 | 14 |
| March | 6.13 | 13.0 | 6.77 | 14 |
| April | 6.13 | 13.0 | 6.77 | 14 |
| May | 6.13 | 13.0 | 6.77 | 14 |
| June | 6.13 | 13.0 | 6.77 | 14 |
| July | 6.13 | 13.0 | 6.77 | 14 |
| August | 6.13 | 13.0 | 6.77 | 14 |
| Sept. | 6.13 | 13.0 | 6.77 | 14 |
| Oct. | 6.13 | 13.0 | 6.77 | 14 |

EXHIBIT VII.—Prices paid by distributors for class I milk F. O. B. city plants to be sold in liquid form, and prices charged consumers 1919 to October, 1938, Inclusive—Continued

| Year | Prices Paid By Distributors (Per Quart) | Retail Prices (Per Quart) | Prices Paid By Distributors (Per Quart) | Retail Prices (Per Quart) |
|--------|---|---------------------------|---|---------------------------|
| | Pittsburgh | | Detroit | |
| 1919 | 8.43 | 14.5 | 7.998 | 15.33 |
| 1920 | 8.29 | 15.6 | 8.04 | 15.92 |
| 1921 | 6.51 | 14.2 | 5.55 | 13.00 |
| 1922 | 6.51 | 12.6 | 5.29 | 12.54 |
| 1923 | 7.87 | 14.2 | 6.62 | 14.00 |
| 1924 | 7.68 | 14.1 | 6.45 | 13.75 |
| 1925 | 7.74 | 14.1 | 6.51 | 13.625 |
| 1926 | 7.55 | 14.0 | 6.45 | 13.96 |
| 1927 | 7.91 | 14.5 | 6.34 | 13.88 |
| 1928 | 7.50 | 14.0 | 5.998 | 13.75 |
| 1929 | 7.65 | 14.25 | 6.11 | 14.00 |
| 1930 | 6.73 | 13.3 | 6.34 | 13.00 |
| 1931 | 5.48 | 11.7 | 4.88 | 11.625 |
| 1932 | 3.63 | 9.0 | 3.46 | 9.21 |
| 1933 | 3.50 | 9.2 | 3.57 | 9.33 |
| 1934 | 4.79 | 10.4 | 4.54 | 10.50 |
| 1935 | 5.10 | 11.0 | 5.27 | 11.83 |
| 1936 | 5.40 | 11.4 | 5.33 | 12.00 |
| 1937 | 6.45 | 13.0 | 5.25 | 12.04 |
| 1938: | | | | |
| Jan. | 6.15 | 13.0 | 5.01 | 13.00 |
| Feb. | 6.15 | 13.0 | 4.84 | 12.00 |
| March | 6.15 | 13.0 | 4.84 | 11.00 |
| April | 6.08 | 13.0 | 4.84 | 12.00 |
| May | 6.08 | 13.0 | 4.41 | 12.00 |
| June | 6.08 | 13.0 | 4.09 | 10.50 |
| July | 6.08 | 13.0 | 4.09 | 10.50 |
| August | 6.15 | 13.0 | 4.09 | 10.50 |
| Sept. | 6.15 | 13.0 | 4.09 | 10.50 |
| Oct. | 6.15 | 13.0 | 4.09 | 10.50 |

| | Milwaukee | | Louisville | |
|--------|-----------|-------|------------|------|
| | | | | |
| 1919 | 8.15 | 12.58 | 6.77 | 15.1 |
| 1920 | 7.25 | 12.25 | 7.48 | 16.0 |
| 1921 | 4.67 | 9.46 | 4.97 | 12.1 |
| 1922 | 4.79 | 9.17 | 4.31 | 10.2 |
| 1923 | 6.11 | 10.42 | 5.22 | 12.4 |
| 1924 | 5.91 | 10.79 | 4.95 | 12.5 |
| 1925 | 5.38 | 10.04 | 5.12 | 12.7 |
| 1926 | 6.02 | 10.77 | 4.71 | 12.5 |
| 1927 | 6.30 | 11.00 | 5.01 | 12.5 |
| 1928 | 6.39 | 11.00 | 4.95 | 12.6 |
| 1929 | 6.45 | 11.25 | 5.07 | 13.0 |
| 1930 | 6.34 | 11.42 | 4.71 | 12.4 |
| 1931 | 5.33 | 9.92 | 4.24 | 11.3 |
| 1932 | 3.98 | 8.32 | 3.78 | 10.0 |
| 1933 | 3.96 | 8.41 | 3.89 | 10.3 |
| 1934 | 4.36 | 9.38 | 4.45 | 11.2 |
| 1935 | 4.47 | 10.00 | 4.75 | 11.9 |
| 1936 | 5.03 | 10.75 | 5.55 | 12.9 |
| 1937 | 5.83 | 12.00 | 5.87 | 13.6 |
| 1938: | | | | |
| Jan. | 5.83 | 12.00 | 5.74 | 14.0 |
| Feb. | 5.83 | 12.00 | 5.76 | 14.0 |
| March | 5.83 | 12.00 | 5.81 | 14.0 |
| April | 5.83 | 12.00 | 5.81 | 13.5 |
| May | 5.83 | 12.00 | | 12.5 |
| June | 5.83 | 12.00 | | 12.5 |
| July | 5.83 | 12.00 | | 12.5 |
| August | 5.83 | 12.00 | | 12.5 |
| Sept. | 5.83 | 12.00 | | 12.5 |
| Oct. | 5.83 | 12.00 | | 13.0 |

EXHIBIT VII.—Prices paid by distributors for class I milk F. O. B. city plants to be sold in liquid form, and prices charged consumers 1919 to October, 1938, Inclusive—Continued

| Year | Prices Paid By Distributors (Per Quart) | Retail Prices (Per Quart) | Prices Paid By Distributors (Per Quart) | Retail Prices (Per Quart) |
|------------|---|---------------------------|---|---------------------------|
| | Kansas City | | Dallas | |
| | | | | |
| 1919..... | 7.55 | 15.04 | | |
| 1920..... | 7.68 | 15.54 | | |
| 1921..... | 6.08 | 13.33 | | |
| 1922..... | 5.01 | 11.88 | 5.48 | 14.0 |
| 1923..... | 5.70 | 13.00 | 5.998 | 15.0 |
| 1924..... | 5.50 | 12.92 | 5.91 | 15.0 |
| 1925..... | 5.33 | 13.00 | 6.02 | 15.0 |
| 1926..... | 5.44 | 13.00 | 5.55 | 12.8 |
| 1927..... | 5.33 | 13.00 | 5.65 | 12.8 |
| 1928..... | 5.27 | 13.42 | 5.74 | 12.3 |
| 1929..... | 5.35 | 13.50 | 5.96 | 13.0 |
| 1930..... | 5.18 | 13.17 | 5.93 | 13.0 |
| 1931..... | 5.07 | 12.25 | 5.18 | 10.9 |
| 1932..... | 3.68 | 10.17 | 4.17 | 9.4 |
| 1933..... | 3.55 | 9.83 | 3.42 | 8.5 |
| 1934..... | 4.19 | 11.04 | 4.39 | 10.2 |
| 1935..... | 4.60 | 11.46 | 4.86 | 11.0 |
| 1936..... | 4.77 | 11.81 | 4.41 | 11.0 |
| 1937..... | 5.55 | 13.00 | 4.41 | 11.0 |
| 1938: | | | | |
| Jan..... | 5.55 | 13.00 | 4.41 | 11.0 |
| Feb..... | 5.55 | 13.00 | 4.30 | 11.0 |
| March..... | 5.55 | 13.00 | 4.30 | 11.0 |
| April..... | 5.59 | 13.00 | 4.35 | 11.0 |
| May..... | 5.29 | 13.00 | 4.35 | 11.0 |
| June..... | 5.29 | 13.00 | 4.35 | 11.0 |
| July..... | 5.29 | 13.00 | 4.35 | 11.0 |
| Aug..... | 4.97 | 13.00 | 4.25 | 11.0 |
| Sept..... | 4.97 | 13.00 | 4.25 | 11.0 |
| Oct..... | 4.97 | 13.00 | 4.25 | 11.0 |

| | Los Angeles | | San Francisco | |
|------------|-------------|------|---------------|------|
| | | | | |
| | | | | |
| 1919..... | 7.72 | 14.2 | 7.61 | 14.2 |
| 1920..... | 9.07 | 17.0 | 9.07 | |
| 1921..... | 7.29 | 15.3 | 7.37 | 14.4 |
| 1922..... | 6.99 | 14.2 | 6.67 | |
| 1923..... | 7.48 | 15.0 | 6.69 | |
| 1924..... | 7.78 | 15.6 | 6.73 | 14.0 |
| 1925..... | 6.77 | 14.9 | 6.79 | 14.0 |
| 1926..... | 7.03 | 15.0 | 6.79 | 14.0 |
| 1927..... | 6.82 | 15.0 | 6.79 | 14.0 |
| 1928..... | 6.02 | 15.0 | 6.69 | 14.0 |
| 1929..... | | 15.0 | 6.69 | 14.0 |
| 1930..... | | 14.5 | 6.67 | 14.0 |
| 1931..... | | 12.7 | 4.95 | 11.8 |
| 1932..... | 3.93 | 10.6 | 4.75 | 12.0 |
| 1933..... | 3.68 | 10.6 | 4.17 | 11.4 |
| 1934..... | 4.30 | 10.8 | 4.26 | 12.0 |
| 1935..... | 4.34 | 11.2 | 4.49 | 12.1 |
| 1936..... | 4.43 | 10.9 | 5.07 | 13.0 |
| 1937..... | 5.25 | 12.0 | 5.50 | 13.0 |
| 1938: | | | | |
| Jan..... | 5.42 | 12.0 | 5.64 | 13.0 |
| Feb..... | 5.20 | 11.5 | 5.64 | 13.0 |
| March..... | 5.20 | 11.5 | 5.64 | 13.0 |
| April..... | 5.20 | 11.5 | 5.48 | 13.0 |
| May..... | 5.20 | 11.5 | 5.27 | 13.0 |
| June..... | 5.20 | 11.5 | 5.27 | 13.0 |
| July..... | 5.20 | 11.5 | 5.63 | 13.0 |
| Aug..... | 5.20 | 11.5 | 5.63 | 13.0 |
| Sept..... | 4.36 | 10.5 | 5.63 | 13.0 |
| Oct..... | | 11.0 | 5.45 | 13.0 |

OCTOBER 11, 1939—A REBUTTAL TO THE TESTIMONY OF OFFICIALS OF NATIONAL DAIRY PRODUCTS CORPORATION AND THE BORDEN COMPANY BY THE FEDERAL TRADE COMMISSION

On March 9 and 10, 1939, the Federal Trade Commission introduced testimony before the Temporary National Economic Committee concerning the existence of monopoly and monopolistic practices in the milk industry. One witness, Mr. George A. Johnson, president of the Johnson Milk Co., of Detroit, Mich., was put on the stand to testify as to the effect on milk prices in that city of a new system of milk distribution, known to the trade as the milk-depot system.

At the conclusion of the Federal Trade Commission's presentation, the Temporary National Economic Committee received requests from Mr. Bernie F. Beach, secretary-manager of the Michigan Milk Producers Association, Mr. Kenneth L. Vardon, president of the United Dairy Workers Union, Local No. 38, Detroit, Mich., Mr. Theodore H. Montague, president of the Borden Milk Co., and Mr. Thomas H. McInnerney, president of the National Dairy Products Corporation, that they be allowed to reply to statements made by witnesses of the Federal Trade Commission. The Temporary National Economic Committee granted the requests of these parties to be heard, and on May 1, 2, and 3, prepared statements were read before the committee by Mr. Beach, Mr. Vardon, Mr. Montague, and Mr. McInnerney.

At the conclusion of this special hearing, the Federal Trade Commission requested and obtained leave of the Temporary National Economic Committee to comment officially to the committee on the testimony of these witnesses. The Commission is accordingly submitting to the Temporary National Economic Committee its appraisal of the testimony of these witnesses.

The Temporary National Economic Committee invited the Department of Agriculture to cooperate with the Federal Trade Commission in the presentation of its hearings on milk before the committee. Dr. Frederic C. Howe, former consumers counsel for the Department of Agriculture and at that time special representative of the Secretary of Agriculture, was designated by the Secretary to cooperate with the Federal Trade Commission. It was at the request of Dr. Howe, representing the Department of Agriculture, that Mr. Johnson was subpoenaed as a witness.

The purpose of the Commission in permitting Mr. Johnson to take the stand was to call to the attention of the Temporary National Economic Committee a new and more economical method for distributing milk. This method had, according to information received by the Federal Trade Commission, succeeded in materially reducing the prices of milk to consumers in the Detroit area.

The Commission, therefore, has confined its investigation of the evidence submitted by Mr. Beach and Mr. Vardon solely to that part of their testimony which challenged the testimony of Mr. Johnson that the milk-depot system was a more economical method for distributing milk. It was the contention of both Mr. Beach and Mr. Vardon that Mr. Johnson's ability to lower the price of milk in Detroit was due to the fact that he was paying his farmer-producers less than the big distributors in this city, and to the further fact that he was paying his employees considerably less in wages than was paid by distributors who had unionized plants. Mr. Johnson was charged with having reduced the price of milk at the expense of milk producers and workers.

After making accurate allowance for the fact that Mr. Johnson did pay for his fluid milk an average price less than the class 1 price paid by other distributors in the Detroit area, the facts disclose that Mr. Johnson was, nevertheless, able to so reduce the price of milk that savings to consumers were considerably in excess of any savings realized by him in the purchase of his milk. Investigation also discloses that the wages paid by Mr. Johnson to his workers compared very favorably with those paid by other distributors who maintained unionized plants. The detailed facts are contained in this report and in a supplementary report by one of the Commission's accountant-investigators. The Commission, therefore, believes that its investigation has verified the substance of the testimony of Mr. Johnson and that the milk-depot system for distributing milk merits consideration by the Temporary National Economic Committee as a method for reducing the cost of milk to the consuming public.

But there are other facts concerning the distribution of fluid milk in Detroit that warrant the committee's attention. Though Mr. Johnson may have paid his farmers less for their class-1 milk than was paid by other distributors in the Detroit area, he paid his farmers more for their class-2 milk than did these other distributors. A report on the Michigan milk industry by the Department of Justice, which investigated the price plan of Mr. Johnson for paying his dairy farmers in the Detroit area, shows that Mr. Johnson's flat price put more money into the pockets of his farmer producers on the average than did the other distributors.¹

So far as a producer of milk in the Detroit area is concerned, it is no advantage to him to receive more for his class-1 milk from distributor customers of the Michigan Milk Producers Association, if in the final analysis he receives less for all his milk than does a farmer who sells to Mr. Johnson. A further observation can be adduced to prove that Mr. Johnson undoubtedly pays his farmer producers a better price for all their milk than does the Michigan Milk Producers Association. Since anyone may join the Michigan Milk Producers Association, it would hardly be expected that Mr. Johnson could obtain his milk from his present farmer producers if he were not making it more advantageous to them to sell to him rather than to belong to the association and to sell to other distributors in the Detroit area.

Finally it should be observed that Mr. Johnson, in paying a flat price to his farmer producers, employs a system of purchasing milk which is much less susceptible to manipulation than that employed by the Michigan Milk Producers Association. The Commission has rarely seen a more complicated method for determining what is due a farmer producer member of a milk cooperative for his milk than the one used by the Michigan Milk Producers Association. It has been the experience of the Commission that whatever the merits of the classified plan for purchasing milk, such plan has enabled large distributors to under-pay the producers of milk cooperatives.

The Commission calls attention to the lack of substance to the charges made by Beach and Vardon against witness Johnson, as definitely developed upon investigation of the facts. The Commission cites as examples two instances:

Mr. Beach, to support his charge that Mr. Johnson would promise to pay farmers at one price and on the day of settlement pay them off at a different and lower price, submitted only one letter. This letter was from a Mr. Lawrence Weston of Brown City, Mich. In it Mr. Weston says that Mr. Johnson on November 1, 1938, visited his farm and offered him \$1.50 per hundredweight for his milk. Weston says he refused Johnson's offer because he knew Johnson would not pay this price. Mr. Weston makes a categorical statement in his letter that Mr. Johnson paid his producers off at \$1.30 per hundredweight for milk in that particular month. An investigation by an examiner of the Federal Trade Commission of the books of the Johnson Milk Company discloses that in the month of November, Mr. Johnson offered \$1.50 per hundredweight for milk and actually paid off at \$1.50 per hundredweight.

Mr. Vardon told the National Economic Committee about the case of an anonymous person who worked for Mr. Johnson during a certain period. Said Mr. Vardon, in his prepared statement:

" * * * if the books of Johnson Milk Co. were examined, they would disclose that an employee bearing Federal Social Security No. 374-16-3349, for the pay period ending December 31, 1938, worked 2 days and received a gross earning credit of \$5. From this amount, a Federal tax of 5 cents was deducted and further deduction was made for breakage and reported shortage in the sum of \$3.33 with the result that this employee for 2 days of labor received \$1.62. This amounts to a daily wage, in the city of Detroit, of 81 cents. To put it another way, the employee, assuming an 8-hour day, and the day was longer than that, worked for the sum of 10 cents per hour."

An investigation of this charge by the Commission discloses that it was wholly unjustified. A complete analysis of this charge is contained on page 3223 of this report.

Only one part of the testimony of Mr. Theodore G. Montague and Mr. Thomas H. McInnerney calls for special comment by the Federal Trade Commission. The purpose of the Federal Trade Commission in presenting hearings on the milk industry before the Temporary National Economic Committee was to call the attention of the committee to the existence of monopoly or monopolistic

¹ A report to Hon. Frank Murphy, Governor, by Hon. Raymond W. Starr, Attorney General of the State of Michigan, and Hon. Thurman Arnold, Assistant Attorney General, United States Department of Justice, relative to the milk industry in Michigan, with particular reference to the Detroit metropolitan area, 1938.

practices in an industry so vitally important to the health of the people of the United States.

Both Mr. Montague and Mr. McInnerney emphatically denied that their corporations individually had ever monopolized the distribution of any milk product. With reference to the distribution of fluid milk, both witnesses not only disclaimed that their corporations had ever monopolized the distribution of this very important health food but asserted that it was impossible for their corporations individually to ever accomplish this end.

Under cross-examination the witnesses conceded the fact that the Federal Trade Commission had never charged that either the Borden Milk Co., by itself, or the National Dairy Products Corporation, by itself, had succeeded in monopolizing the distribution of fluid milk.

The Commission pointed out that monopoly in American industry has changed its technique since the closing days of the nineteenth century. Monopoly used to mean the power of a single corporation, through physical ownership of a preponderant part of the productive or distributive facilities of an industry, to dictate price and control supply over a very large part of that industry. With the tremendous expansion of the American economy it has become increasingly rare for one company, by itself, to own enough of an industry wherewith to dictate price or control supply over a large part of the industry. Today, monopoly generally involves the concerted action of a number of large corporations in limiting supply or fixing price over a substantial area.

This concerted action may be caused by the corporations agreeing among themselves to control supply or fix price or may be due to the existence of a very large corporation which owns an appreciable percentage of the industry's total physical assets. Because of the corporation's enormous financial power it is able to induce other corporations to accept unchallenged the prices which it establishes. In the "follow the leader technique" of monopoly there may be no explicit agreements or understandings. The mere presence of the corporation with its tremendous financial resources is often enough to effectively dissuade other corporations in the industry from challenging its prices.

With the tremendous growth in the size of American industry, monopoly has found it increasingly difficult to control price or production so as to make this control permanently effective for an industry as a whole. Even in the days of the Standard Oil Trust, which owned a very high percentage of the whole oil-refining industry, competition from independent refineries sprang up intermittently in that small percentage of the industry which was not owned by the trust. Because of the vast size of many American industries today modern monopoly has come generally to mean the concerted action of large corporations to fix price or control supply in certain regions. Thus, at any one time monopoly may be in existence in very large areas of an industry, while in others the monopolistic interests may have been challenged by sporadic competition and a competitive struggle ensues. In still other areas competition by small independents may be tolerated by the larger corporations of an industry either because the great corporations may not be operating in these areas or do not consider the profit to be obtained from controlling price therein sufficiently attractive to make the effort.

It frequently happens, therefore, that competition and monopoly may exist side by side in a modern industry. The competitive area will be that part of the industry wherein competition has broken out, or wherein it is tolerated, while in the rest of the industry monopolistic control of price or supply may be established. Moreover, it is important to note this further qualification. In some American industries where regional monopoly prevails, the area of competition and the area of monopoly are never permanently fixed. Competition may break out in an area which has been for a considerable period of time under the control of a group of corporations which have fixed price or controlled supply. Conversely, an area in which competition has precipitated considerable strife may suddenly cease to be competitive. The competitive challengers may have been put out of business or they may have come to terms with their monopolistic opponents. Then, this area will settle down to a period in which the price of a product will be dictated or its supply controlled.

As earlier stated, it was not the contention of the Federal Trade Commission that the Borden Milk Company, by itself, or the National Dairy Products Corporation, by itself, had ever controlled the price of milk all over the country. It was, however, the contention of the Commission that these two corporations acting in concert with other large distributors had from time to time in certain important regions of the United States succeeded in dictating the price of milk. Moreover, the Commission did not contend that this monopolistic control

within definite regions was permanent. The Commission well knew that in the milk industry the area of competition and the area of monopoly tend to change. However, the tendency of intermittent competition to reshape the boundaries of monopoly in the milk industry does not make the burdens of monopoly generally any less onerous.

The Commission believes that there is abundant evidence to support its position. A report by the attorney general of Michigan and the Assistant Attorney General of the United States in charge of antitrust enforcement found that large distributors in Detroit, including the Borden Milk Co. and the National Dairy Products Corporation, had acted in concert to dictate the price of milk in that area during 1934 and 1935. There is filed with this report a report by the district prosecutor for Wayne County, Mich., the honorable Duncan McCrea, reciting in detail his experiences with the milk trust in Detroit during the years 1934 and 1935, pp. 3225-3231.

The attorney general of New York State found, as a result of an investigation in 1937, that certain large distributors in New York City, including The Borden Co. and the National Dairy Products Corporation, acting in concert, were dictating the price of milk. Several investigations of the Federal Trade Commission adduced considerable evidence that in other regions large distributors had been able to accomplish substantially this same result. The office of the consumers counsel for the Department of Agriculture has, during the last 6 years, made numerous investigations of the milk industry. It is the opinion of Dr. Frederic C. Howe, who was consumers counsel for 2 years, that large milk distributors had been able to control the price of milk in certain regions, and had done so frequently. This, too, is the opinion of the present consumers counsel for the Department of Agriculture. It is the opinion of the investigating staff of the Antitrust Division of the Department of Justice that monopoly does exist regionally in the milk industry. Few industries have been more thoroughly investigated by agencies of government in the United States than the milk industry. It is important to note that all these agencies have reached the same conclusion, namely, that the milk industry has been subjected frequently to regional price dictatorship.

To support their contentions that neither The Borden Co., by itself, nor the National Dairy Products Corporation, by itself, had or could monopolize the distribution of fluid milk in the United States, Mr. Montague and Mr. McInnerney submitted figures showing the percentage of the total fluid milk produced in the United States distributed by each of their companies. These figures are challenged by the Federal Trade Commission because approximately 30 percent of the total fluid milk produced in the United States is consumed on the farm. It is only milk which enters into commerce that could be monopolized. Accordingly, the Commission finds that the percentages submitted by Mr. Montague and Mr. McInnerney for their companies, respectively, are larger as is later shown in this report. But even assuming that The Borden Co. and the National Dairy Products Corporation, individually or collectively, distribute only a small percentage of the total fluid milk sold commercially in the United States, such statistical data are of little value in determining whether or not these two corporations have ever acted in concert with other corporations to dictate the price of milk regionally in the United States. Further on in this report the Commission shows that in certain regions of the United States The Borden Co. and the National Dairy Products Corporation, together, distribute a very high percentage of all the milk sold in those regions. Accordingly, the Federal Trade Commission submits that the contentions of Mr. Montague and Mr. McInnerney concerning competition in the milk industry are neither sound nor convincing.

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I. MONOPOLISTIC TENDENCIES IN THE MILK AND DAIRY PRODUCTS INDUSTRIES

Theodore C. Montague, President of The Borden Company, testified before the T. N. E. C. on May 2, 1939, saying:

"This committee has been told that a vast milk monopoly exists; that it operates on a national basis, controlling prices that are paid farmers for their products and prices city consumers must pay for their milk. Anyone with knowledge of the milk industry knows the impossibility of monopolizing either the production or the sale of milk on such a scale. The milk industry in this country is not controlled by monopoly." (Record, T. N. E. C., May 2, 1939).

Thomas H. McInnerney, President of National Dairy Products Corporation, testified on May 3, 1939, and said:

"Speaking for our company, I am confident that I can demonstrate that there is not and cannot be a monopoly in milk distribution." (Record, T. N. E. C., May 3, 1939).

THE BORDEN COMPANY:

During the investigation by the Federal Trade Commission of the sale and distribution of milk and dairy-products in the New York Milk Sales area, facts were developed showing to some extent the operations of The Borden Company prior to 1936. (H. Doc. No. 95, 75th Cong. 1st Sess.). The original business of this company was the manufacture and sale of condensed milk (See *Ibid.* p. 56). It has expanded, however, from time to time, and now includes in its list of products manufactured and sold, condensed and evaporated milk, fluid milk, cream, ice cream, butter, dried milk, malted milk, cheese (practically all kinds), and numerous other milk by-products. Beginning in 1928, The Borden Company initiated and pursued a policy of expansion under which independent business concerns engaged in almost every branch of the dairy industry were acquired. With the exception of cash necessary to retire outstanding preferred stock and bonds of the acquired companies, the consideration given in practically all acquisitions consisted of certificates of common stock of The Borden Company. During the four-year period (1928 to 1931), The Borden Company issued 1,965,078 shares of its common stock directly or indirectly applying to the acquisition of capital stock or assets of 124 companies engaged in the dairy industry. Later other acquisitions were made bringing the total number of the independent companies acquired prior to 1936, to 207, of which 186 were located in the United States and 21 in foreign countries, principally Canada. Of the 186 domestic companies acquired, 56 were engaged in general dairy business; 53 were primarily engaged in processing and distributing fluid milk and fluid cream; 50 in manufacturing ice cream; 14 in manufacturing butter and cheese; 4 in manufacturing casein; 3 manufactured condensed and powdered milk; 2 were producing canned and dried eggs, and 4 manufactured miscellaneous products such as milk sugar, malted milk, beverages and ice. (Report of F. T. C. on Agricultural Income, Part I, p. 240). The importance of some of the companies acquired was discussed in that report.

Subsequent to acquisition the acquired companies were reorganized and consolidated. The business and assets of some companies were transferred to others and their operations grouped and placed under the supervision of four subholding companies, as follows:

1. Borden's Food Products Co., Inc.
2. Borden's Dairy Products Co., Inc.
3. Borden's Ice Cream & Milk Co., Inc.
4. Borden's Cheese & Produce Co., Inc. (name changed Dec. 5, 1931, from Borden's Produce Co., Inc.).

At the end of 1935 the four groups described above held the capital stock of approximately 50 subsidiary operating companies. (H. Doc. #95, 75th Cong., 1st Sess. p. 58)

Finally, in January, 1936, the four subholding companies were dissolved, and all of the assets of their respective subsidiaries (except 14 whose corporate identity were retained, in some instances to protect the name and in other instances to facilitate operations by the parent company) were taken over by The Borden Company which is now primarily an operating company. (*Ibid.* pp. 57-59).

The following is a condensed statement from the consolidated balance sheet for The Borden Company and all of its subsidiaries as of December 31, 1936, 1937 and 1938, as reported by this company to the Securities and Exchange Commission (File 1-71-2).

| | Dec. 31, 1936 | Dec. 31, 1937 | Dec. 31, 1938 |
|--|-----------------|-----------------|-----------------|
| ASSETS | | | |
| Cash..... | \$17,586,009.61 | \$15,545,029.25 | \$19,701,562.24 |
| Other Current Assets including Miscellaneous, less Reserves..... | 40,318,417.27 | 40,167,896.67 | 36,235,152.89 |
| Total Current Assets..... | 57,904,426.88 | 55,712,925.92 | 55,936,715.13 |
| Property, Plant and Equipment, less Reserves for Depreciation..... | 65,377,625.42 | 66,068,361.45 | 65,806,628.30 |
| Prepaid Items, Etc..... | 612,043.17 | 653,535.47 | 657,263.08 |
| Trade Marks, Patents and Good Will..... | 1.00 | 1.00 | 1.00 |
| Total..... | 123,894,096.47 | 122,434,823.84 | 122,400,607.51 |
| LIABILITIES | | | |
| Total Current Liabilities..... | 14,247,154.30 | 14,013,798.25 | 12,712,111.92 |
| Deferred Income and noncurrent Liabilities..... | 500,528.59 | 254,738.21 | 526,243.47 |
| Total Reserves..... | 8,271,326.84 | 8,289,583.63 | 8,526,131.42 |
| Capital Stock..... | 65,950,560.00 | 65,950,560.00 | 65,950,560.00 |
| Surplus: | | | |
| Capital Surplus..... | 13,756,076.72 | 14,204,140.55 | 14,477,738.13 |
| Earned Surplus..... | 21,168,450.02 | 19,722,003.20 | 20,207,822.57 |
| Total Surplus..... | 34,924,526.74 | 33,926,143.75 | 34,685,560.70 |
| Total..... | 123,894,096.47 | 122,434,823.84 | 122,400,607.51 |

(S. E. C. File 1-71-2)

Mr. Montague called attention in his statement in T. N. E. C. Exhibit 449, to the relation of the milk and milk equivalent of all products, sold by The Borden Company, to the total production of milk on farms in the United States (Record T. N. E. C., May 2, 1939). Inasmuch as approximately one-third of all the milk produced on farms is consumed on farms and does not reach the market, a more accurate and fair statement would be to compare Borden's milk with the milk sent to the market by farmers, either as fluid milk or cream. It is true that it would not be easy to monopolize milk used on farms as fluid milk, or butter, or fed to calves, but it is the commercial milk (milk retailed by producers, milk skimmed on farms for sale of butter-fat, and milk sold at wholesale, including milk delivered to condensaries, cheese factories and market milk receiving stations), which is susceptible to monopoly. Computed on this basis of commercial milk reported by the Bureau of Agricultural Economics, Borden's percentage of the total milk equivalent available for distributors was as follows:

| Year | Borden's Sales Quarts. T. N. E. C. Ex. 449 | Pounds 2.15 lbs. to qt. | Commercial Milk. Bur. Agri. Econ. Pounds | Borden's percentage of total Per cent. |
|-----------|---|----------------------------|---|---|
| 1934..... | 2,723,000,000 | 5,854,450,000 | 74,724,000,000 | 7.83 |
| 1935..... | 2,681,000,000 | 5,549,150,000 | 74,908,000,000 | 7.42 |
| 1936..... | 2,462,000,000 | 5,293,300,000 | 77,270,000,000 | 6.85 |
| 1937..... | 2,381,000,000 | 5,119,150,000 | 77,417,000,000 | 6.61 |

While the total milk equivalent handled by Borden amounts to only $6\frac{1}{2}$ to 8 percent of the total commercial milk sold by dairy farmers, in many products such as ice cream, canned milk and cheese, and in many localities, its percentage of control is much higher. It is here that the true picture of monopoly is disclosed.

For instance, in June, 1935, The Borden subsidiaries, operating in Chicago, Illinois, distributed approximately 21 percent of the fluid milk sold in that market and in the New York metropolitan area, during the first three months of 1938, The Borden Company sold 25.7 percent of all the fluid milk sold in that area (T. N. E. C. Ex. 370). During 1937, The Borden Company distributed 36.57 percent of the fluid milk, in Milwaukee, Wisconsin (Ibid.), and 28.88 percent of the fluid milk in San Francisco (Ibid. p. 3161).

NATIONAL DAIRY PRODUCTS CORPORATION

National Dairy Products Corporation was organized as a holding company, incorporated on December 8, 1923, and immediately acquired the capital stock of the Hydrox Company (an ice cream manufacturer), Chicago, Illinois, and Rieck-McJunkin Dairy Company (a milk distributor), Pittsburgh, Pennsylvania, in exchange for capital stock of National Dairy Products Corporation. Subsequently, and prior to June 30, 1938, the capital stock or assets of 360 additional operating

concerns engaged in the various branches of the milk and milk products industries were acquired, in whole or in part. (For complete list of these concerns showing name, location, date of acquisition and commodities, see T. N. E. C. Ex. 370). The acquisitions were financed largely by issuing capital stock of National Dairy Products Corporation, for capital stock or assets of the acquired companies (Ibid. p. 3136).

In many instances, capital stock was acquired. However, where it appeared, after investigation, that substantial competition existed between the company to be acquired and some other subsidiary of the holding company, assets were acquired to avoid the provisions of Section 7 of the Clayton Act (See also T. N. E. C. Ex. 370) which made it unlawful for a corporation engaged in commerce to acquire the whole or any part of the stock of another corporation engaged also in commerce, where the effect of such acquisition may be "To substantially lessen competition between the corporation whose stock is so acquired and the corporation making such acquisition, or to restrain such commerce in any section or community or tend to create a monopoly in any line of commerce." in instances where capital stock of a company was acquired, even though there was competition, the Clayton Act has been held¹ not effective if the acquiring company voted the stock to transfer the assets to itself or to another subsidiary before corrective action could be taken.

Where assets were acquired, they were immediately transferred to an appropriate existing subsidiary, or to a new company of the same name as the acquired company, all of the capital stock of which was owned by the holding company.

After many reorganizations and consolidations of the acquired companies, the National Dairy Products Corporation, on June 30, 1938, owned or controlled 96 operating subsidiaries, 77 of which were engaged in buying, processing, manufacturing, selling, and/or distributing milk and various milk products in the United States. Thirty-three of these companies operated pasteurizing plants and sold fluid milk in 44 cities located in 19 states and the District of Columbia. (For complete list of active subsidiaries, classified as to products, showing name and location, see T. N. E. C. Ex. 370.)

The financial strength of National Dairy Products Corporation is indicated by the following condensed statement from consolidated Balance Sheet of the holding company and all of its subsidiaries as of December 31, 1936, 1937 and 1938, as reported to the Securities & Exchange Commission (File 1-11-46-2):

| | December 31, 1936 | December 31, 1937 | December 31, 1938 |
|--|----------------------|----------------------|----------------------|
| ASSETS | | | |
| Cash in banks and on hand..... | \$17,613,018.09 | \$19,146,376.46 | \$16,840,571.00 |
| Other current assets including miscellaneous less reserve..... | 47,240,626.36 | 45,602,313.12 | 47,982,982.99 |
| Total Current Assets..... | 64,853,644.45 | 64,748,689.58 | 64,823,553.99 |
| Investments & Advances..... | 5,474,477.41 | 6,289,948.98 | 5,953,829.50 |
| Proceeds from Exercise of Common Stock Purchase Warrants..... | 15,375.00 | | |
| Cash on deposit for retirement of debentures..... | | 333.05 | 194.83 |
| Property, Plant and Equipment, less Reserves for Depreciation..... | 106,598,547.58 | 108,404,703.84 | 105,677,327.61 |
| Deferred Charges, etc..... | 895,060.46 | 971,103.88 | 877,915.97 |
| Good will..... | 22,391,853.64 | 22,391,853.64 | 22,391,853.64 |
| Total Assets..... | 200,228,958.54 | 202,806,632.97 | 199,724,675.54 |
| LIABILITIES | | | |
| Current Liabilities..... | 25,659,806.99 | 29,360,524.28 | 24,949,144.28 |
| Bank Loans..... | 4,900,000.00 | 3,500,000.00 | 2,100,000.00 |
| Debentures..... | 62,545,500.00 | 60,539,000.00 | 58,775,500.00 |
| Minority stockholders: Interest in subsidiaries..... | 931,952.30 | 920,013.48 | 914,449.54 |
| Reserves for Contingencies..... | 2,321,726.35 | 2,635,411.96 | 2,762,233.12 |
| Preferred Stock..... | 9,870,900.00 | 9,870,900.00 | 9,870,900.00 |
| Common Stock ² | 51,336,630.00 | 51,337,430.00 | 51,337,430.00 |
| Surplus: | | | |
| Capital Surplus..... | 4,412,845.11 | 4,308,304.59 | 4,297,721.02 |
| Earned Surplus..... | 38,249,597.79 | 40,335,048.66 | 44,717,297.58 |
| Total Surplus..... | 42,662,442.90 | 44,643,353.25 | 49,015,018.60 |
| Total Liabilities..... | 200,228,958.54 | 202,806,632.97 | 199,724,675.54 |

¹ Arrow-Hart & Hegeman Electric Co. v. Federal Trade Commission, 291 U. S. 587.

² 6,263,780 shares in 1936

6,263,880 shares in 1937

6,263,880 shares in 1938.

The proportion of the total commercial milk (milk sold by dairy farmers as fluid milk and cream) produced in the United States, handled by subsidiaries of National Dairy Products Corporation, during the years, 1934 to 1938, inclusive, is shown by the following statement:

| Year | Milk Produced on Farms & Sold at Market Pounds | Total Milk used by National Dairy Products Corp. Pounds | Percent |
|-----------|--|---|---------|
| 1934..... | 74, 724, 000, 000 | 8, 276, 904, 000 | 11. 08 |
| 1935..... | 74, 908, 000, 000 | 8, 465, 514, 000 | 11. 30 |
| 1936..... | 77, 270, 000, 000 | 9, 005, 818, 000 | 11. 65 |
| 1937..... | 77, 417, 000, 000 | 9, 354, 296, 000 | 12. 08 |

National Dairy Products Corporation handled from 11 to 12 percent of the total commercial milk and cream available to processors and distributors during the four-year period. The combined percentages of the total commercial milk represented by fluid milk and milk products sold by the two nation-wide distributors (National Dairy Products Corporation and The Borden Company) of milk and milk products during the same years follows:

| Year | Milk represented by sales of N. D. P. Corp. Percent | Milk represented by Sales of Borden. Percent | Total Percent |
|-----------|---|--|---------------|
| 1934..... | 11. 08 | 7. 83 | 18. 91 |
| 1935..... | 11. 30 | 7. 42 | 18. 72 |
| 1936..... | 11. 65 | 6. 85 | 18. 50 |
| 1937..... | 12. 08 | 6. 67 | 18. 69 |

The percentage of control by the two companies combined of all the milk sent to market by dairy farmers in the United States was substantially the same (18.5 to 19 percent) throughout the four-year period.

The size of National Dairy Products Corporation and the extent of its operations are indicated by the fact that its subsidiaries:

(1) Processed, manufactured, handled, and/or sold the products (including fluid milk) of 9,354,296,000 pounds, or more than 9 percent of the total milk (103,132,000,000 pounds) produced on farms in the United States during 1937; or approximately 12.1 percent of the commercial milk (77,417,000,000 pounds) sold by dairy farmers in the United States during 1937.

(2) Processed, manufactured, handled and/or sold and distributed the products of 8.48 percent of the total milk sold by farmers and distributed as fluid milk and fluid cream; 6.86 percent of all the milk manufactured into creamery butter; 23.72 percent of the milk used in the manufacture of ice cream; 38.91 percent of all the milk used in the manufacture of cheese; and 5.59 percent of the milk used in the manufacture of concentrated milk products in the United States during 1936.

(3) Manufactured, sold and/or distributed over 48,000,000 gallons of the ice cream and ice cream mix in the United States during 1937.

(4) Manufactured, sold and/or distributed 44.84% of the total cheese manufactured in the United States during 1937. In addition to the vast cheese business, Kraft Phoenix Cheese Corporation, one of the largest subsidiaries of the National Dairy Products Corporation, has a three-year contract (dated May 7, 1937), to process and package for Armour and Company "its entire requirements of pasteurized cheese during the three-year period" at fixed service charges according to grade and size of package. Under this contract, 20,615,630 pounds of cheese were processed for Armour & Co. during 1938.

(5) During 1937 wholly-controlled subsidiaries of National Dairy Products Corporation handled and distributed the following percentages of the total estimated quantities of fluid milk sold for consumption in the metropolitan markets for which such information is available, as follows:

| | Percent | | Percent |
|---------------------|---------|---------------------|---------|
| Baltimore, Md..... | 61. 04 | Youngstown, O..... | 22. 9 |
| Hartford, Conn..... | 28. 8 | Milwaukee, Wis..... | 22. 63 |
| Phila., Pa..... | 24. 18 | Louisville, Ky..... | 30. 1 |
| New York City..... | 23. 8 | | |

NATIONAL DAIRY PRODUCTS CORPORATION IN WASHINGTON, D. C.

National Dairy Products Corporation entered the Washington, D. C. milk market by the purchase of Chestnut Farms Dairy, Inc., on January 15, 1929. The consideration was (according to testimony given by Mr. McInerney before the Senate Subcommittee Investigating conditions in the sale and distribution of milk in Washington, D. C., on December 18, 1933), 10,000 shares of National Dairy Products Corporation common stock (market value \$116 per share) amounting to \$1,160,000; gold bonds of National Dairy Products Corporation, \$1,000,000; assumption and redemption of Chestnut Farms Dairy preferred stock, \$1,000,000, and assumption of mortgage on the property, \$675,000, making a total consideration of \$3,835,000. The net worth as shown on the books of Chestnut Farms Dairy, Inc., at that time was \$1,656,835.02. (Hearings before Senate Subcommittee under Senate Res. 76, 73rd Congress, 2nd Session, Part II, p. 1011).

The testimony did not develop the consideration paid for Chevy Chase Dairy, Inc., purchased by National Dairy Products Corporation on October 18, 1930. However, Exhibit No. 1 shows the consideration to be 42,250 shares of common stock of National Dairy Products Corporation. At that time the market value of National Dairy Products Corporation was \$44.50 per share. On this basis the market value of the consideration paid for Chevy Chase Dairy, Inc., was \$1,880,125. (Hearings before Senate Subcommittee under Senate Res. 76, 73rd Congress, 2nd Session, Part II, p. 1041).

The operations of Chestnut Farms Dairy, Inc., and of Chevy Chase Dairy, Inc., were consolidated under the corporate name of Chestnut Farms-Chevy Chase Dairy Company.

Mr. Norman E. Simpson of U. S. General Accounting Office made an audit of the books recording the operations of Chestnut Farms-Chevy Chase Dairy Company, subsidiary of National Dairy Products Corporation, during 1938, for the House of Representatives sub-committee on Public Health, Hospitals and Charities of the Committee on the District of Columbia, during its investigation of the milk industry, pursuant to House Res. No. 113, 76th Congress, 1st Session, and testified before the Committee on June 7, 1939, (Transcript of Hearings, pp. 1619-1656) that Chestnut Farms-Chevy Chase Dairy Company purchased from Maryland & Virginia Milk Producers Association during 1938, 11,822,438 gallons of milk from which the company sold 38,259,424 quarts or 9,564,424 gallons in the form of fluid milk, including so-called market milk, Grade A milk, Vitamin D milk and other premium milk, but not including buttermilk (1,456,676 quarts) and chocolate milk (1,193,004 quarts). This was equivalent to an average of 26,205 gallons of fluid milk per day. The District of Columbia Health Department advised the Federal Trade Commission on October 18, 1938, that the daily average consumption of milk in Washington, D. C., during the first six months of 1938 was 47,219 gallons. On the basis of these figures, Chestnut Farms-Chevy Chase Dairy Company, during 1938, sold approximately 55.5 percent of the fluid milk consumed in Washington, D. C.

II. MONOPOLISTIC PRACTICES IN THE MILK AND DAIRY PRODUCTS INDUSTRIES

The investigations by the Federal Trade Commission of conditions existing in the same and distribution of milk and other dairy products developed facts to the effect that the two large, nationwide distributors of milk and milk products—National Dairy Products Corporation and The Borden Company, both distribute fluid milk in New York City and Milwaukee, Wisconsin, while only The Borden Company distributes fluid milk in Chicago, and only National Dairy Products Corporation distributes fluid milk in Philadelphia, Baltimore, Washington, Cleveland, and St. Louis. In the cities where both companies operate there is apparently no competition in regard to prices paid producers or prices charged the consumers for fluid milk. While neither may be said to have a monopoly of the distribution of milk in New York City, both companies combined distribute approximately 50 percent of the fluid milk, (to be exact, 49.8 during the first three months of 1938).

In markets where both the nationwide distributors were not operating, the evidence indicates that cooperation was had with other large distributors with substantially the same effect. It was found in Chicago that the Bowman Dairy Company and Borden-Wieland, Inc., (subsidiary of The Borden Company), sold approximately 50 percent of the fluid milk. The same two companies owned approximately 73 percent of the voting stock of the Milk Dealers Bottling Exchange and thereby controlled that organization. The Milk Dealers Bottling Exchange was apparently organized and operated for the benefit of large dis-

tributors and of such small distributors as cooperated with them in maintaining uniform practices to stabilize prices. The same two employed approximately 60 percent of the members of the Milk Wagon Drivers Union and exerted influence in its operation. Officials and members of the Milk Wagon Drivers Union, through intimidation and threats of violence, interfered with the work of employees of independent milk distributors in Chicago. Drivers for independent dealers were refused membership in the union because such dealers cut prices of milk. In other words, the union was apparently operated for the benefit of large distributors (H. Doc. 451, 74th Cong. 2nd Session).

WISCONSIN CHEESE EXCHANGE DOMINATED BY LARGE DEALERS

National Dairy Products Corporation, through Strauble and Company of Green Bay, Wisconsin, subsidiary of the Kraft-Phoenix Cheese Corporation, and The Borden Company, through Lakeshire Cheese Company, joined with Swift & Co. through its subsidiary, Pauly & Pauly, Armour & Co., through its subsidiary, Blodgett Cheese Co., and the Great Atlantic & Pacific Tea Co. in controlling the Wisconsin Cheese Exchange at Plymouth, Wisconsin, wherein the sale of a small quantity of cheese each week from one dealer to another established the price to be paid manufacturers of bulk cheese throughout the United States (H. Doc. 451, 74th Cong. 2nd Sess. p. 91). Investigation of the files of The Borden Company disclosed documents indicating that The Borden Company maintained a private wire from its offices in New York City to the Wisconsin Cheese Exchange in Plymouth, Wisconsin, through which eastern offices of the company were immediately advised of the price fixed for cheese each week by the Exchange. (H. Doc. 95, 75th Cong. 1st Sess. p. 62)

COMPETITION RESTRICTED BY LARGE DEALERS

Evidence was developed indicating that at times The Borden Company refrained from competing with other large companies, including Kraft-Phoenix Cheese Corporation, a subsidiary of the National Dairy Products Corporation; Carnation Company; and Pet Milk Company (Ibid. 67).

Evidence also disclosed that The Borden Company and Carnation Company maintained prices for the sale of their products on the Pacific Coast (Ibid. p. 73).

Evidence developed by the Commission's investigation indicated that the National Dairy Products Corporation, through its subsidiaries engaged in practically every branch of the dairy industry, coupled with the fact that a number of subsidiaries operating numerous country plants and equipment for assembling and handling milk, has enabled National Dairy Products Corporation to take advantage of local conditions and prices and purchase milk in the various classes at lower prices and in the aggregate depress prices paid to farmers. Evidence was developed indicating that the National Dairy Products Corporation, because of its size and importance in the industry, was able to maintain prices of its cheese products and discontinue supplying to any dealer who would not maintain the price set by National Dairy Products Corporation (Ibid. 109 to 114).

In its report on the New York Milk Market submitted to Congress on January 5, 1937, the Commission said:

"The National Dairy Products Corporation with subsidiaries in all the lines of products in the dairy industry, and with country receiving plants as well as manufacturing and processing plants in a large number of producing areas, is in a strategic position for the purchase of milk. Subsidiaries located in areas where production is high and prices low many purchase milk, transfer, ship it to subsidiaries in areas where production is low, milk scarce and prices high. The corporation is in a position to take advantage of the interstate character of the milk industry and thus defeat the efforts of state control boards to maintain fixed prices to producers within the state by importing milk from other states where fixed prices are lower or where there is no price control. With its large capital and vast facilities for assembling, processing, and storing milk and cream, the corporation can purchase milk in flush seasons when it is plentiful and prices low and store it for use in the manufacture of many dairy products in low production seasons when milk is scarce and prices high." (Ibid. p. 87)

DAIRY FARMERS' PRICES DEPRESSED

The fact that the National Dairy Products Corporation operates numerous subsidiaries has enabled it to take advantage of local conditions and prices and purchase milk in the various classes at lower prices and in the aggregate depress

prices paid to dairy farmers. Subsidiaries of the corporation operate country receiving plants for fluid milk throughout the New York, Philadelphia, and Baltimore milk sheds. They also operate condensaries, creameries, and cheese plants in these sheds. During 1935 a subsidiary distributing fluid milk in New York City leased three of its fluid milk receiving stations in New York State to a subsidiary engaged in processing cream, condensed milk, and milk powder, in order to purchase fluid milk in Pennsylvania and avoid paying the higher price for Class 1 milk fixed by the New York State Division of Milk Control. Simultaneously a manufacturing subsidiary leased two of its country plants in Pennsylvania to a Baltimore subsidiary of National Dairy Products Corporation. This manipulation of the plants of subsidiaries by National Dairy Products Corporation cost dairy farmers delivering to the three plants in New York State, transferred from fluid milk market to manufacturing plants during April, 1935, \$17,603.75, equivalent to approximately \$200,000.00 per year. This amount represented the difference between the Class 1 fluid milk price which they had been receiving and the manufacturing price which they received after the transfer. (H. Doc. 95, 75th Cong., 1st Sess. p. 106.)

CONTROL OF DAIRY FARMER COOPERATIVES BY DISTRIBUTORS

In a summary report to the Congress on January 4, 1937, (H. Doc. 94, 75th Cong. 1st Sess.), the Federal Trade Commission reviewed the Federal and State laws authorizing farmers to act together, through cooperative associations, in collectively handling, processing, preparing for the market, and marketing their products, and exempting them from prosecution under the anti-trust laws, provided such organizations operated for the benefit of farmer members and met certain requirements of the law. The Commission reached the conclusion that milk producers cooperative organizations in the fluid markets investigated, where not dominated by distributors, greatly improved conditions in dairy farming and obtained better prices for milk than producers could have obtained without such organizations. In several large milk markets the management of cooperative organizations were obviously under the influence of distributors and did not adequately protect the interests of the farmers. (H. Doc. 94, 75th Cong. 1st Sess. p. 34.)

In the New York metropolitan area, the Federal Trade Commission developed evidence indicating that Sheffield Producers Cooperative Association, Inc., whose members supplied milk to the Sheffield Farms Co., Inc., a subsidiary of National Dairy Products Corporation, distributing fluid milk in New York City, was dominated and controlled by its sole customer-distributor.

Sheffield Farms Co., Inc. employed Judge Berne A. Pyrke, former Commissioner of Agriculture and Markets of the State of New York, as an agricultural adviser. One of the duties of Judge Pyrke as an employee of the distributor was apparently to guide the activities of the Farmers Cooperative Association.

On July 26, 1934, Judge Pyrke prepared a "suggested form letter" for Clark W. Halliday, Secretary of Sheffield Producers Cooperative Association, Inc., to send to the Commissioner of Agriculture and Markets of New York State, which he sent to Mr. Halliday, with the following memorandum:

"In accordance with our understanding of yesterday, I am enclosing a suggested form of letter to be sent by you to Commissioner Baldwin. I have prepared this letter in the hope that it may be of service to you in formulating your reply." (H. Doc. 95, 75th Cong. 1st Sess. p. 98.)

Judge Pyrke, while in the employment of Sheffield Farms, Inc., also prepared a statement for Mr. Halliday to use at a milk conference to be held in New York City on October 2, 1934, as a representative of milk producers. This statement was very favorable to the distributor and read in part as follows:

"Our members are gravely concerned over the existing milk market situation. For that reason, while I have not a great deal to offer, I am very happy to have the privilege of participating in this conference, the importance of which I feel cannot be overstated. Our association has had a very happy existence. Starting 12 years ago with a membership of 2,800, we have now grown to over 15,000. In respect to the milk checks which we have been able to provide for our members, we have had, in common with other elements of the industry, our ups and downs. Not infrequently our checks have been smaller than we would have liked to have them, but on the whole we have been very well satisfied until recently with the results which we have been able to secure for our members.

"I am sufficiently old-fashioned that I have never been able to summon much enthusiasm for the fixing of prices by public authority. I had very serious misgivings when the States in our milk-shed started to fix prices. Notwithstanding my misgivings, I very cheerfully concede that for a period of time our milk checks

were bigger because of the action of the milk-control boards, than if no such boards had been in existence. The results of the last few months, however, make me feel sure that there was a basis for my misgivings. Beginning with June of this year, we have experienced a continuous and increasing loss in our fluid sales. The losses in August reached a point to disturb seriously the management of our association.

"We felt that our members had a right to know why these losses were occurring, and we took all the steps in our power to ascertain the reasons. As a result of our investigations, we are satisfied that the blame does not rest with the distributor through whom we market our product. That distributor had been just as alert, just as resourceful, and just as energetic in securing and holding fluid markets for us as it has been in the past, but has found himself in a position of impossible competition. To state the matter in the fewest possible words, the milk-control boards, despite very energetic efforts on their part, have shown their inability to enforce prices either in the country or upon resale. The result of this is that our distributor is faced with the impossible task of trying to sell our milk in competition with lower-cost milk handled by many of his competitors." (Ibid. pp. 99-100.)

It should be noted that Sheffield Producers Cooperative Associations, Inc., was an organization of some 15,000 dairy farmers selling exclusively to the Sheffield Farms Co., Inc. The Commission reached the conclusion that, based on facts developed during its investigation, the Sheffield Producers Cooperative Association, Inc., was dominated and controlled by its one customer, Sheffield Farms Co., Inc., a wholly owned subsidiary of National Dairy Products Corporation. (Ibid. p. 2)

In this connection attention is called to the following finding of fact and recommendation by the Federal Trade Commission:

"It has been established by the investigation that the activities of most of the bona-fide independent cooperative organizations have greatly benefited milk producers. The activities of these organizations should be broadened and encouragement given to the extension of such activities as are authorized by the various Federal and State laws. *However, milk producers' cooperative associations should be controlled exclusively by the dairy farmer members.*" (F. T. C. Summary Rept. on Conditions with respect to the Sale and Distribution of Milk and Dairy Products, Jan. 4, 1937, p. 36)

DEALER DOMINATION OF MILK PRODUCERS COOPERATIVE PROHIBITED BY FEDERAL TRADE COMMISSION ORDER

The Federal Trade Commission issued an order in Docket No. 3380 (July 21, 1939) directing the respondents (Gold Medal Farms Co., Inc., et al, New York City) to cease and desist, among other things, from: "(7) Controlling, dominating, interfering, or attempting to control, dominate, or interfere with, in any form, manner or method whatsoever, the organization, management, control, or operation of the Washington and Rensselaer Counties Producers' Cooperative Association, Inc., or any other milk producers' cooperative association or agency, authorized by law, with the purpose, intent, or result of preventing the producer members, officers, or directors of such a cooperative, from exercising their free and unimpeded judgment as to its organization, management, control, or operation."

LEGISLATIVE EFFORTS TO PROTECT DAIRY FARMERS COOPERATIVES FROM DEALER INTERFERENCE

In view of the fact that the above order has not been interpreted by courts, attention is called to a bill (H. R. 8311, 75th Cong., 1st sess.), introduced by Congressman Koppelman on August 20, 1937, which had it been passed, would have declared by statutory enactment that such practices constitute unfair methods of competition. The bill, which was based on conclusions and recommendations by the Federal Trade Commission in its Summary Report on the Milk Industry, (H. Doc. 94, 75th Cong., 1st Sess. p. 31 ff.) contained the following provision:

"(d) It shall be an unfair practice for a distributor of or a dealer in milk and/or milk products engaged in handling, purchasing, shipping, or selling same in interstate or foreign commerce, directly or indirectly, or through his or its officers, employees, agents, or haulers—

"(1) to discourage membership or shareholding in or patronage or contractual relations with any cooperative association of milk producers, or with any milk producers' bargaining agency;

"(2) to dominate or interfere with the formation or operation of any such cooperative association; or to participate in or assist in the formation, supervision, administration, or operation thereof; or to contribute financial support thereto;

"(3) to dominate or interfere with the formation or operation of a milk producers' bargaining agency acting within the provisions of subsection (b) or (c) of this section; or to participate in or assist in the formation, supervision, administration, or operation thereof; or to contribute financial support thereto;

"(4) to close, or to threaten to close, any receiving plant, or to refuse milk, or to threaten to refuse milk, from any producer, because of his membership or activity in any such cooperative association or milk producers' bargaining agency, or in order to prevent producers from employing the services of or of becoming members of such an association, or of a milk producers' bargaining agency;

"(5) to, in any way, hinder, obstruct, interfere, or prevent the formation or operation of any cooperative associations of milk producers, or of any milk producers' bargaining agency."

MONOPOLISTIC PRACTICES IN DETROIT, MICHIGAN

Bernie F. Beach, Secretary and Manager, Michigan Milk Producers Association, and Kenneth L. Vardon, President of United Dairy Workers Union, Detroit, Michigan, testified before the T. N. E. C. on May 1 and May 2, 1939, respectively, at their own requests, for the purpose of refuting certain testimony which had been given by George A. Johnson, proprietor of Johnson Milk Company, Detroit, Michigan, on March 10, 1939.

In response to a question by Senator King as to whether or not there had been a very close union "between the Farmers Association, Milk Producers Association, and the distributors so that they may have, * * *, synchronized or coordinated their efforts with a view to raising prices and maintaining prices, and have they not utilized the code and other instrumentalities set up by the Federal Government in order to effectuate the purposes I have indicated?", Mr. Beach said, "*I can again only speak from the standpoint of Michigan and I can't agree that that is true from my knowledge of the business there.*" (Emphasis supplied)

There is considerable evidence to the effect that there has been close working between the Michigan Milk Producers Association, Inc. and distributors in Detroit to establish and maintain prices both to be paid dairy farmers and to be charged consumers.

While investigating conditions in the sale and distribution of milk in Philadelphia during 1935, the Federal Trade Commission found evidence indicating that milk distributors in Detroit, Michigan, had agreed on wholesale prices to stores, and Michigan Milk Producers Association, Inc., worked with distributors and bore part of the expenses of maintaining retail prices out of stores to consumers. This evidence was in the form of a letter dated April 20, 1932, from W. J. Kennedy, President of W. J. Kennedy Dairy Company, a subsidiary of United States Dairy Products Corporation, to the President of the latter corporation, referring to fixing of prices to wholesale trade in the Detroit area, a copy of the agreement signed by 25 Detroit dealers and a copy of a telegram sent to 3900 stores in Detroit by Michigan Milk Producers Association, Inc. Mr. Kennedy's letter was quoted in the Commission's report on the Philadelphia milk market (H. Doc. 152, 74th Cong., 1st Sess. p. 27), in part as follows:

"For the past week I have done hardly anything except try to stabilize the milk prices. I took it upon myself to call all the dealers of Detroit together at a special meeting at the Statler Hotel last Friday. I am pleased to say that every dealer in Detroit was present with the exception of the National and The Borden, who I asked not to attend this meeting.

"I wanted to see what could be done with the independent group first, I tried to point out to the men what this drop in the price of milk meant and if the price at the grocery store was not changed immediately that the National Dairy Co. advised me that starting this week that the retail price would go down to 7 cents and the grocery store price to 5 cents.

"When I went into this meeting I drew up an agreement, as per the attached copy, and toward the finish of the meeting I asked each man to sign it. But before signing it I wanted them to read it very carefully as I did not want any distributor to sign this agreement without he absolutely intended to carry it out to the letter, so I am pleased to say that each and every man signed up, to start the new program this morning, Tuesday, April 19.

"I then called a meeting for the National and Borden for Saturday morning at 10 a. m. and they were more than pleased with the outcome. I then demanded

from them that they absolutely agree not to put on any stores for a week, while we were trying to put over this program. Our mutual friend, Ebling, was so much impressed with what had been done with the other dealers that he wanted to take a copy of the agreement down to McInnery, as he was leaving on Monday for a National director's meeting in New York. On Monday I followed this up by having a meeting with the secretary, president, and attorney for the producers' association.

"I made a suggestion that we send out a telegram to every grocery store and butcher shop in Detroit, asking their cooperation as per the attached copy of wire. There were 3,900 telegrams sent out last evening, and cost about \$900. The Farmers' Association stands half, Borden \$100, National \$100, and all the other dealers stand the balance." (File Phi. 5, Uni. 5, Cor. 5.)

The telegram referred to by Mr. Kennedy was dated April 18, 1932, and signed by Michigan Milk Producers Association. It read as follows:

"Present milk price on street is ruinous to farmers and will mean disaster to dairymen if low price out of stores is continued. We appeal to you to not sell milk at less than seven cents per quart from your store at this time." (File Phi. 5, Uni. 5, Cor. 5.)

The agreement to which Mr. Kennedy referred was dated April 15, 1932, and signed by representatives of 25 dealers in the Detroit area. The agreement contained the following provisions effective Tuesday, April 19, 1932:

"1. That our company will on the above date sell milk to our wholesale trade at a price of not less than 6 cents per quart.

"2. That we will not consent to any store selling below 7 cents but will discourage as far as is within our power such sales.

"3. That we will get from our wholesale trade for other dairy products the prevailing market price as of April 1, 1932." (File 5, Uni. 5, Cor. 5.)

The "mutual friend, Ebling" referred to by Mr. Kennedy was President of the Ebling Dairy Company, a subsidiary of National Dairy Products Corporation, and also a Director of the latter corporation.

Due to lack of funds and pressure of other matters, the Commission was not able to investigate the Detroit situation at that time.

The joint report by Honorable Raymond W. Starr, Attorney General for Michigan, and the Assistant Attorney General of the United States to Governor Frank Murphy of Michigan during 1938, indicates that retail prices were maintained by distributors throughout 1934 to 1935. This report stated, on page 52, as follows:

"During 1934 and 1935 the Distributors' Trade Association, Acting in concert with the local Bottle Exchange, was able to maintain prices at a fixed level and to prevent effective competition in the sale of milk."

In response to a question by Commissioner Ewin L. Davis as to how one man (meaning George A. Johnson, owner of Johnson Milk Company, who initiated the method of selling milk direct to consumers through milk "depots" in Detroit) could break the market when he was one of 59 dealers and sells only a relatively small percentage of the milk sold in Detroit, Mr. Beach, testifying at the hearing before T. N. E. C. on May 1, 1939, answered:

"I doubt if you can say that the Johnson Milk Company all alone broke the market. There are approximately 14 or 15 distributors that pay on the same basis, somewhat similar to what he does, and it undoubtedly is a combination of that that had a tendency to break the market down to an unduly low level." (Record TNEC, May 1, 1939.)

The report made by the Attorney General of Michigan and the Assistant Attorney General of the United States to Governor Murphy said:

"Vigorous Action by the Wayne County Prosecutor's Office, coupled with the opening of the milk depots with their low-priced milk resulted in a breaking up of the combine and a restoration of competition in the milk business." (Record, T. N. E. C., May 1, 1939.)

On February 10, 1935, practically all of the distributors in Detroit announced an increase in the wagon delivery price to consumer from 11¢ to 12¢ per quart. At the same time, the price to the producer for Class 1 milk was increased by 23¢ per hundred pounds (approximately ½¢ per quart). Following this increase, the prosecuting attorney for Wayne County instituted an investigation and started action against the Metropolitan Detroit Milk Dealers Association and the officers and directors of Michigan Milk Bottle Exchange, charging conspiracy to raise retail prices in violation of the Michigan Antitrust Laws. Following an unsuccessful attempt to indict the distributors before a grand jury quo warranto proceedings were instituted to dissolve the Metropolitan Detroit Milk Dealers Association, which were also unsuccessful. However, following the vigorous activity of the prosecuting attorney for Wayne County, Metropolitan Detroit Milk Dealers

Association was voluntarily dissolved and competition was restored to some extent in the Detroit market.

III. PROFITS OF NATIONAL DAIRY PRODUCTS CORPORATION AND THE BORDEN COMPANY

PROFITS BY NATIONAL DAIRY PRODUCTS CORPORATION

Mr. McInnerney submitted an exhibit (No. 456, Verbatim, T. N. E. C., May 3, 1939, showing the relation of consolidated profits to net sales of milk and milk products by subsidiaries of National Dairy Products Corporation, annually, 1930 to 1938, inclusive, and also the number of quarts of "milk National Dairy had to process and sell to earn \$1 of profit". The rate of profit on net sales for the years 1930 to 1938, inclusive, as shown by the above exhibit, and the amount of net earnings per share of outstanding common stock for the years, 1933 to 1938, inclusive, as shown by the annual report of the company to its stockholders for 1937 (dated March 10, 1938), were as follows:

| | Mr. McInnerney's Testimony before TNEC (Verbatim Record 5/3/39, p. 122) Net Earnings per \$1 of Sales | Annual Report of National Dairy Products Corp. for 1937. Net Earnings per share Common Stock | | Mr. McInnerney's Testimony before TNEC (Verbatim Record 5/3/39, p. 122) Net Earnings per \$1 of Sales | Annual Report of National Dairy Products Corp. for 1937. Net Earnings per share Common Stock |
|-----------|---|--|-----------|---|--|
| | <i>Cents</i> | <i>Dollars</i> | | <i>Cents</i> | <i>Dollars</i> |
| 1930..... | 7 | | 1935..... | 33½ | 1.38 |
| 1931..... | 7 | | 1936..... | 4 | 2.01 |
| 1932..... | 5 | | 1937..... | 29½ | 1.53 |
| 1933..... | 3½ | 1.01 | 1938..... | 3½ | 1.56 |
| 1934..... | 2½ | .93 | | | |

Mr. Innerney emphasized the small net profit per quart of milk handled. It should be noted, in contrast, that the above figures cover the period of one of the worst depressions this country has ever known, during which many industries suffered losses and many dairy farmers were operating at a loss and millions of people were unemployed. During this period, National Dairy Products Corporation made profits each year ranging from 2½% of net sales in 1934 to 7% of net sales during 1930 and 1931. During this period the corporation made profits ranging from 93¢ in 1934 to \$2.01 in 1936, on its enormous number of shares (6,263,880) of outstanding common stock. On the basis of investment (capital and surplus) the earnings during 1936 amounted approximately 15%, for 1937 approximately 11% and for 1938, approximately 12%.

The following tabulation shows the total net sales with deductions and consolidated net profit earned by National Dairy Products Corporation and its subsidiary operating companies during each calendar year, 1936, 1937 and 1938, as reported to Securities & Exchange Commission (File No. 1-11-46-2).

| | Dec. 31, 1936 | Dec. 31, 1937 | Dec. 31, 1938 |
|--|------------------|------------------|-------------------------|
| Net Sales..... | \$329,171,729.61 | \$351,015,643.84 | \$334,355,269.51 |
| Cost of Sales ¹ | 311,792,157.75 | 337,041,593.42 | 318,454,614.79 |
| Total..... | 17,379,571.86 | 13,974,050.42 | 15,900,654.72 |
| Other Income..... | 1,197,847.41 | 1,126,413.94 | 1,164,097.18 |
| Total..... | 18,577,419.27 | 15,100,464.36 | 17,064,751.90 |
| Deduct: | | | |
| Interest..... | 3,024,641.09 | 2,605,282.84 | 2,995,228.06 |
| Dividends on Preferred Stock of Subsidiary Company held by the Public..... | 120,750.00 | 120,750.00 | ² 141,163.67 |
| Total..... | 3,145,391.09 | 2,726,032.84 | 3,136,391.73 |
| Profit before Provision for Federal Income Taxes..... | 15,432,028.18 | 12,373,831.52 | 13,928,360.17 |
| Provision for Federal Income Taxes..... | 2,150,000.00 | 2,083,100.00 | 2,602,000.00 |
| Net Profit for Year..... | 13,282,028.18 | 10,290,731.52 | 11,326,360.17 |

¹ Includes delivery, selling, administrative and general expenses, repairs and maintenance, (including replacements of milk bottles), less depreciation.

² Includes minority interest in earnings.

SALARIES PAID BY NATIONAL DAIRY PRODUCTS CORPORATION

Deductions from sales to arrive at the above amounts of net income include salaries paid executives, officers and directors of National Dairy Products Corporation and its subsidiaries which, during 1935, amounted to \$2,626,777.89. During that year there were 48 executives receiving \$15,000 or more per year, as follows:

| | | | |
|------------------------------|--------------|-----------------------------|--------------|
| 1. Thomas H. McInnerney----- | \$108,000.00 | 26. R. S. Gordon----- | \$20,000.00 |
| 2. J. L. Kraft----- | 75,000.00 | 27. H. L. Bauer----- | 20,000.00 |
| 3. L. A. Van Bomel----- | 60,100.00 | 28. J. Henry Geissler--- | 19,999.92 |
| 4. W. S. Scott----- | 40,000.08 | 29. G. C. Mahle----- | 19,440.00 |
| 5. C. H. Kraft----- | 35,246.54 | 30. Harry Breakstone--- | 19,333.33 |
| 6. J. H. Kraft----- | 35,000.08 | 31. F. J. Andre----- | 18,000.00 |
| 7. E. J. Finnerman----- | 32,500.00 | 32. H. S. Van Bomel----- | 17,773.32 |
| 8. James Bruce----- | 30,000.00 | 33. H. N. Woolman----- | 17,058.50 |
| 9. V. F. Hovey----- | 29,566.68 | 34. J. I. Christopherson--- | 17,000.00 |
| 10. B. S. Halsey----- | 28,850.00 | 35. Norman Kraft----- | 16,975.00 |
| 11. F. J. Bridges----- | 27,600.00 | 36. R. A. Page----- | 16,700.00 |
| 12. J. R. Moulder----- | 26,999.84 | 37. R. M. Wellwood----- | 16,633.32 |
| 13. N. N. Brawner----- | 27,000.00 | 38. H. S. Tuthill----- | 16,500.04 |
| 14. H. C. Horneman----- | 25,100.00 | 39. H. B. Wilkerson----- | 16,155.20 |
| 15. L. A. Stickler----- | 25,000.00 | 40. D. W. Fisher----- | 16,079.20 |
| 16. Lester Closter----- | 25,000.00 | 41. Clyde H. Shaffer----- | 16,000.08 |
| 17. Louis Josephson----- | 25,000.00 | 42. Morris Breakstone--- | 16,000.00 |
| 18. E. J. Mather----- | 24,999.84 | 43. Samuel Claster----- | 16,000.00 |
| 19. C. W. Ebling----- | 24,300.00 | 44. David Breakstone----- | 16,000.00 |
| 20. A. C. Blackburn----- | 23,499.92 | 45. R. B. Kestor----- | 15,999.92 |
| 21. C. C. Pound----- | 23,000.00 | 46. W. A. Klepper----- | 15,750.00 |
| 22. Fred Kraft----- | 22,499.22 | 47. J. A. Rohde----- | 15,000.00 |
| 23. F. J. Bahl----- | 21,250.00 | 48. E. E. Stewart----- | 15,000.00 |
| 24. N. J. Dessert----- | 21,000.00 | | |
| 25. F. A. Wills----- | 29,064.34 | Total----- | 1,229,974.37 |

(The preceding figures are taken from Report of the Federal Trade Commission on the Sale and Distribution of Milk Products (New York Milk Sales Area) Sept. 30, 1936, p. 78.) The 48 executives listed above received salaries aggregating \$1,229,947.37 or an average of \$25,624.46 each. According to the statement filed with the Securities and Exchange Commission for 1938 (S. E. C. File No. 1-11-46-2), the salaries paid the officers and directors were as follows:

| | |
|---|--------------|
| Thos. H. McInnerney----- | \$150,460.00 |
| J. L. Kraft----- | 75,400.00 |
| L. A. Van Bomel----- | 68,400.00 |
| 30 directors received----- | 910,296.00 |
| 4 officers (who were not directors) received----- | 61,016.00 |

PROFITS BY NATIONAL DAIRY PRODUCTS CORPORATION IN WASHINGTON, D. C.

During 1938, the National Dairy Products Corporation, through its subsidiary, Chestnut Farms-Chevy Chase Dairy Company, operating in Washington, D. C., made a net profit of \$550,505.05, from which a reserve was made for federal income taxes of \$88,300, leaving a net profit after providing for federal income tax, of \$462,205.05. From this net profit a dividend of \$300,000 was paid to National Dairy Products Corporation as sole stockholder, leaving a net profit to surplus of \$162,205.05. The total investment (outstanding capital stock, par value \$1,500,000, and surplus \$1,446,372.82) amounted to \$2,946,372.82 on January 1, 1938. The net earnings during 1938 amounted to 30.8 percent of the capital outstanding, or 15.68 percent on the total investment. (Testimony of Norman E. Simpson before the H. R. Subcommittee on Public Health, Hospitals and Charities of the Committee of District of Columbia, pp. 1619 ff.) In this connection it should be noted that Chestnut Farms Dairy, Inc., Chevy Chase Dairy, Inc., and the consolidated company, Chestnut Farms-Chevy Chase Dairy Company, have paid dividends to National Dairy Products Corporation as follows, according to testimony before Senate Subcommittee investigating milk (1933) and the Commission files:

CHESTNUT FARMS-CHEVY CHASE DAIRY

| | | | |
|-----------|-----------|------------|-------------|
| 1929..... | \$90, 000 | 1935..... | \$270, 000 |
| 1930..... | 140, 000 | 1936..... | 457, 500 |
| 1931..... | 255, 000 | 1937..... | 286, 350 |
| 1932..... | 135, 000 | 1938..... | 300, 000 |
| 1933..... | 250, 000 | | |
| 1934..... | 120, 000 | Total..... | 2, 303, 850 |

In ten years the two Washington, D. C. subsidiaries returned to the National Dairy Products Corporation, \$2,303,850 in dividends.

DIVIDENDS RECEIVED BY NATIONAL DAIRY PRODUCTS CORPORATION FROM ALL SUBSIDIARIES

From all of its subsidiary operating companies, the National Dairy Products Corporation received the following dividends during the years 1935, 1936, 1937, and 1938:

| | |
|-----------|--------------------|
| 1935..... | \$18, 912, 403. 65 |
| 1936..... | 13, 841, 638. 00 |
| 1937..... | 8, 690, 211. 62 |
| 1938..... | 9, 057, 573. 00 |

While we have no information as to the specific dividends received during the years prior to 1935, it is known that the National Dairy Products Corporation and its subsidiaries earned profits during each year since the organization of the holding company.

PROFITS BY THE BORDEN COMPANY

The following tabular statement shows the total net sales with deductions and consolidated net profit earned by The Borden Company and its subsidiary operating companies during each calendar year, 1936, 1937, and 1938:

| | Dec. 31, 1936 | Dec. 31, 1937 | Dec. 31, 1938 |
|--|---------------------|---------------------|---------------------|
| Net Sales..... | \$238, 844, 537. 57 | \$237, 561, 671. 94 | \$212, 038, 654. 20 |
| Cost of Sales and Expenses ¹ | 229, 578, 496. 02 | 230, 518, 508. 18 | 204, 226, 207. 88 |
| Net Operating Profit..... | 9, 266, 041. 55 | 7, 043, 163. 76 | 7, 812, 446. 32 |
| Other Income (Less Charges for Interest)..... | 453, 967. 07 | 446, 136. 31 | 460, 130. 23 |
| Total..... | 9, 720, 008. 62 | 7, 489, 300. 07 | 8, 272, 576. 55 |
| Deduct: Federal & Other Income Taxes (Estimated)..... | 1, 702, 483. 40 | 1, 168, 661. 02 | 1, 602, 888. 59 |
| Maintenance expenditures on properties not essential to operations (less rental income)..... | 96, 035. 42 | 29, 987. 32 | 28, 482. 99 |
| Total..... | 1, 798, 518. 82 | 1, 198, 648. 34 | 1, 631, 371. 58 |
| Net Income for Year..... | 7, 921, 489. 80 | 6, 290, 651. 73 | 6, 641, 204. 97 |

¹ Including provision for depreciation of \$6,183,922.26 in 1938 and \$6,256,676.18 in 1937. Insurance, taxes, and all manufacturing, selling, delivery, administrative and general expenses after deducting miscellaneous operating income.

The Borden Company, the second largest distributor of milk and dairy products in the United States, also earned profits throughout the depression. Its net income during 1936 was \$7,921,489.80 or 3.31% of net sales and amounted to \$1.80 per share of outstanding common stock (4,396,704 shares par value \$15 per share). Its net income during 1937 was \$6,290,651, or 2.64% of net sales and amounted to \$1.43 per share of common stock outstanding. Its net income during 1938 was \$6,641,205, or 3.123% of total net sales and amounted to \$1.51 per share (4,396,704 shares) of common stock outstanding. (Report to Stockholders and Employees for the year, 1938, p. 4.) Net income—before deduction for income tax reserves, amounted to 9.6% of investment (capital and surplus) during 1936, 7.4% in 1937, and 8.2% in 1938.

SALARIES PAID BY THE BORDEN CO.

The deductions from sales to arrive at the above amounts of net income include salaries paid executive officers and directors of The Borden Company and its subsidiaries. During 1935, 35 officers and executives of The Borden Company received in excess of \$15,000 each as follows:

| | | | |
|--------------------------|-------------|-------------------------|-------------|
| 1. Arthur W. Milburn | \$95,000.00 | 20. Radcliff V. Jones | \$20,000.00 |
| 2. Albert C. Milbank | 20,000.00 | 21. Madison H. Lewis | 20,000.00 |
| 3. Stanley M. Ross | 52,550.00 | 22. Henry W. Jeffers | 20,000.00 |
| 4. Edward B. Lewis | 48,000.00 | 23. Charles L. Dressel | 19,685.00 |
| 5. T. G. Montague | 47,900.00 | 24. C. E. Beardslee | 18,753.00 |
| 6. George M. Wangle, Jr. | 44,100.00 | 25. E. B. Lewis, Jr. | 18,000.00 |
| 7. Patrick D. Fox | 42,000.00 | 26. Stuart Peabody | 18,000.00 |
| 8. H. C. Cronk | 39,000.00 | 27. Harry A. Ross | 18,000.00 |
| 9. L. Manuel Hendler | 36,000.00 | 28. Howard J. Mountrey | 16,968.00 |
| 10. Walter Page | 35,000.00 | 29. R. B. Smallwood | 16,855.00 |
| 11. Ralph D. Ward | 32,500.00 | 30. Louis J. Auerbacher | 16,200.00 |
| 12. W. H. Marcussen | 28,750.00 | 31. R. N. Kennedy | 15,910.00 |
| 13. H. W. Comfort | 27,235.00 | 32. L. A. Bletzer | 15,158.00 |
| 14. William Callan | 25,000.00 | 33. H. C. Moores | 15,055.00 |
| 15. Michael Hendler | 24,000.00 | 34. Nathan Lebovitz | 15,000.00 |
| 16. John F. Watson | 22,000.00 | 35. B. M. Thoens | 15,000.00 |
| 17. N. D. Goss | 21,425.00 | | |
| 18. J. Augenblick | 21,000.00 | | |
| 19. Everett L. Noetzel | 20,000.00 | | |
| | | Total | 960,044.00 |

The foregoing 35 officers and executives received salaries aggregating \$960,044, or an average of almost \$27,430 each per year. According to statement filed with Securities & Exchange Commission for 1938, the salaries paid officers and directors by The Borden Company were:

| | |
|---|-------------|
| Theodore G. Montague, Pres. | \$60,000.00 |
| George M. Waugh, Jr., Ex. V. Pres. | 48,000.00 |
| Harold W. Comfort, V. Pres. | 43,000.00 |
| 14 directors | 280,834.00 |
| 8 officials | 142,333.00 |
| 16 employees of registrant & officers & employees of subsidiaries | 406,438.00 |

IV.—RELATIONSHIP BETWEEN FARM PRICES AND RETAIL PRICES OF FLUID MILK

In each of the markets investigated by the Federal Trade Commission (For list of cities investigated, see Summary by F. T. C., January 4, 1937, p. III and for full details see reports by the Federal Trade Commission on the several milk investigations, 1935-1937.) the facts developed indicate that in all instances distributors purchased milk at the lowest price possible and sold it to consumers for all the traffic would bear.

The Commission also found that:

"A drop in prices charged consumers has usually been accompanied by a reduction in prices paid by distributors to producers; similarly, an increase in the price paid to producers has been followed immediately, in almost every instance, by an increase in the price charged the consumer and, in many instances, the latter increase has been greater than that allowed producers. During the period of the depression, while prices paid producers reached a very low point, and there were corresponding decreases in prices charged consumers, nevertheless, the spread was usually sufficient to enable the distributors to show what was, in most instances, a fair margin of profit. Generally speaking, from the facts ascertained during this investigation in a limited number of milk sheds, while the full extent of the decrease in prices paid producers has not always been passed on to the consumers, the full amount of increase in price paid the producers has usually been added to the price charged consumers." (F. T. C. Summary Report on Sale and Distribution of Milk and Dairy Products (1937), p. 32).

In each of the markets investigated by the Federal Trade Commission, dairy farmers have organized associations under farmer cooperative laws, to negotiate with distributors for prices to be paid dairy farmers for milk. The Commission found that meetings were held by representatives of dairy farmers and representatives of distributors at which prices to be paid dairy farmers and prices to consumers were determined. (Report of Federal Trade Commission on Sale of Milk in Connecticut and Philadelphia Milk-sheds, p. 3.) However, as herein-

before stated, (Section II, p. 23) in many instances dairy farmers' cooperative associations were influenced, dominated and controlled by large distributors and did not properly protect their farmer members. The Commission also found that:

"Producers of milk have not always been adequately fortified, in price conferences with distributors, with data sufficient to enable them to discuss the factors relating to prices on equal terms with representatives of distributors, who were usually supplied with minute details of processing and distributing costs and other data relating to milk marketing conditions." (F. T. C. Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products.)

A comparison of prices paid to dairy farmers by distributors f. o. b. city plant for Class 1 milk with prices charged consumers, delivered to doors in bottles, per quart, during October, 1938, was presented in Exhibit No. 370, page 3162, as follows:

| City | Prices paid dairy farmers by distributor f. o. b. city plant for Class 1 milk. Cents per quart | Prices charged consumer delivered in bottles. Cents per quart | City | Prices paid dairy farmers by distributor f. o. b. city plant for Class 1 milk. Cents per quart | Prices charged consumer delivered in bottles. Cents per quart |
|-----------------------|--|---|--------------------|--|---|
| Boston..... | 6.58 | 13.00 | Milwaukee..... | 3.83 | 12.00 |
| Philadelphia..... | 5.98 | 12.00 | Louisville..... | 5.81 (Apr.) | 13.00 |
| Baltimore..... | 6.13 | 13.00 | Kansas City..... | 4.97 | 13.00 |
| Washington, D. C..... | 6.77 | 14.00 | Dallas..... | 4.25 | 11.00 |
| Pittsburgh..... | 6.15 | 13.00 | Los Angeles..... | 4.36 (Sept.) | 11.00 |
| Detroit..... | 4.09 | 10.50 | San Francisco..... | 5.45 | 13.00 |

It is to be kept in mind that the above prices paid to dairy farmers do not represent actual prices received by them for even Class 1 milk since they include cost of transporting milk from the farms to city plants, and only represent prices paid for that part of the milk sold by distributors in fluid form. Farmers received very much lower prices for milk delivered to distributors in excess of the quantity sold as fluid milk.

In Washington, D. C., which is practically a closed market for both fluid milk and fluid cream, the Dairy Farmers Cooperative Association (Maryland & Virginia Milk Producers Association) has been able to maintain a relatively high price for milk for its members. During the first 10 months of 1938 the one price plan was in effect. Dealers purchased only their requirements for fluid milk and fluid cream at one price. During this period Chestnut Farms-Chevy Chase Dairy Company (subsidiary of National Dairy Products Corporation), purchased 9,765,917 gallons (39,063,668 quarts) of milk (averaging 3.92 to 4.31% butter fat) at an average cost, including premiums, of 29.3¢ per gallon or 7.325¢ per quart delivered into its Washington plant. Beginning with November 1, 1938, sales were made by the Association on a classified price plan. Distributors continued to purchase only their requirements for fluid milk (Class 1) and fluid cream (Class 2). During these two months Chestnut Farms-Chevy Chase Dairy Company purchased 1,641,545 gallons of Class 1 milk at an average price, including premiums 31.2¢ per gallon, or 7.8¢ per quart and 414,976 gallons of Class 2 milk, at an average price of 17.9¢ per gallon, or 4.975¢ per quart. The average butter fat test of the total of both classes was 4.22%.

In this connection it should be noted that during the year 1938 the company sold 31,424,200 quarts of Grade A milk, at both wholesale and retail, the average price being 13.07¢ per quart. The regular retail delivered price was 14¢ per quart. Using the per quart price paid farmers for Class 1 milk delivered to the plants in Washington during November and December, 1938, the margin on Grade A fluid milk was (13.07 minus 7.80) 5.27¢ per quart. During the year, Chestnut Farms-Chevy Chase Dairy Company sold 1,546,347 quarts of "light" cream, receiving an average price (both wholesale and retail) of 55.96¢ per quart. Assuming that "light" cream averaged 20% butter fat (five quarts of 4% milk per quart of 20% cream) the company received for the milk used in producing "light" cream an average of 11.13¢ per quart in addition to the value of skim milk used in the production of other products. During the year the company also sold 111,348 quarts of "heavy" cream, receiving an average price of \$1.1271 per quart (assuming that

the heavy cream was 40% cream, the company received an average of 11.27¢ per quart (ten quarts of 4% milk per quart of 40% cream) for the milk used in producing the heavy cream). It should be noted that during November and December when the milk used in the production of cream was paid for as Class 2 milk, the average price was 4.975¢ per quart. Based on these figures the margin received by the company on milk used in the production of cream was 6.155¢ on the milk used in the production of "light" cream and 6.295¢ on the milk used in the production of heavy cream.

Therefore, on milk for which the company paid the dairy farmer the Class I price (31.2 cents per gallon or 7.8 cents per quart) it made a gross margin of 5.27 cents per quart; while on milk for which the company paid the Class II price (17.9 cents per gallon or 4.975 cents per quart) it made gross margins of 6.155 cents per quart on Class II milk used to produce "Light" cream and 6.295 cents per quart on Class II milk used to produce "Heavy" cream.

V. CLASSIFIED METHOD OF DETERMINING PRICE OF MILK TO PRODUCERS, ABUSED BY LARGE DISTRIBUTORS

ORIGIN OF BASE AND SURPLUS AND CLASSIFIED SALES PLANS

In all of the important milk markets health departments have set up rules and regulations for producing milk to protect the health of consumers. Dairy farmers producing milk for a particular market are required to equip their farms and handle milk in accordance with such health regulations as a prerequisite to obtaining a permit to sell milk for fluid consumption in that market. Permits are usually given by Health Departments to a sufficient number of farmers to furnish a supply in low production periods (usually October, November and December) which results in an over-supply in high production periods (usually April, May and June). Distributors and dealers usually purchase the entire annual output of the individual dairy farmers supplying them with milk and in order to be assured of an adequate supply throughout the year, must purchase milk produced by a sufficient number of farmers to insure an adequate supply during the low production period. The result of this practice has been that during the flush production season, distributors may have more milk than can be sold for consumption in fluid form. This excess milk is sometimes referred to as "surplus" and must be converted into other milk products which (distributors claim) are sold at a lower return than fluid milk and fluid cream.

The continuous struggle between dairy farmers and milk distributors with regard to prices for milk led dairy farmers producing milk meeting health requirements to organize cooperative groups to market their milk collectively. The problem of finding a market for all the milk produced by all members of the group and at the same time guaranteeing each member a market for his entire output led to a serious question concerning the disposition of so-called "surplus" milk produced under sanitary conditions to meet the requirements of the fluid milk market.

BASE AND SURPLUS PLAN

These conditions led to an effort on the part of organized groups of dairy farmers to allocate to each member a definite proportion of the fluid milk business which led to the so-called "base and surplus" plan of marketing milk. Under this plan each dairy farmer member of the group was assigned a daily quota of milk for which he may receive the fluid milk price. The dairyman's quota or base was usually based on his average daily shipments during the low production period. Under this plan the actual fluid sales were apportioned to each farmer member of the group on the basis of his quota.¹

CLASSIFIED SALES PLAN

The fact that distributors were required to take the entire output of the producers, coupled with the fact that only a percentage of that quantity could be sold as fluid milk led to the adoption of a plan of paying for milk according to the use made of the milk by the distributor. The price paid for each class is supposed to bear a direct relation to the prices received for that class or the products from that class. The number of classes into which the milk is divided for pricing purposes varies in the different markets. Class 1, however, is uniformly applied

¹ For a more detailed explanation of Base & Surplus plan of determining prices paid dairy farmers for milk, see Report by Federal Trade Commission on Sale and Distribution of Milk and Dairy Products in Connecticut and Philadelphia, p. 28.

to milk sold for consumption in fluid form and Class 2 is usually applied to milk used in the production of fluid cream. Other classes include milk used in the production of ice cream, butter, cheese, condensed milk, powdered milk and other milk products. The Market Administrator in the New York metropolitan sales area uses nine different classifications with a different price for each class to arrive at a blended price to be paid dairy farmers.² (TNEC Exhibit 370.)

THE CLASSIFIED PLAN OF PAYMENT ABUSED BY DISTRIBUTORS

It should be noted that the classified use plan of pricing milk applies only to milk produced and sold under health regulations and qualified for consumption in fluid form.

Following a summarization of the facts developed by its investigation of the several milk markets, the Federal Trade Commission reached the following conclusion:

"The principle of handling milk under the so-called classification or use plan of payment has been recognized and used in some of the large producing areas. This plan, however, is not used in all markets and is opposed by many producers. Use of the classified plan has caused much dissatisfaction among producers, partly because they cannot know what they will receive for milk at the time of delivery (the average price in many instances being much lower than they expected) and partly because of the difficulty of understanding the complicated method of computing the amount due them under such plan. Moreover, such plan, in the absence of audited reports, makes it possible for unscrupulous dealers to underpay producers." (Federal Trade Commission Summary Report on Milk and Dairy Products, Jan. 4, 1937, p. 35).

The Commission found in its investigation of the Connecticut and Philadelphia markets that the classified use plan of paying for milk had been abused by distributors with the result that dairy farmers lost substantial sums of money through underpayment by distributors. In this connection the Federal Trade Commission found that:

"Dairy farmers of the Connecticut and Philadelphia milksheds lost in excess of \$600,000 during 1934 through practices of certain distributors, for most of which it is difficult to find justification. These practices included underpayments to producers by dealers and excessive hauling charges. This estimate does not include any excessive country-station charges to producers. Prevalence of these practices both in Connecticut and Philadelphia raises the question as to whether similar practices are being employed in other areas." (Federal Trade Commission Report on Sale and Distribution of Milk Products in Connecticut & Philadelphia Milksheds, April 5, 1935.)

NATIONAL DAIRY PRODUCTS CORPORATION'S MISUSE OF BASE AND SURPLUS PLAN OF PAYING FARMER—ST. LOUIS MARKET

During his examination of Mr. McInnerney and other officials of National Dairy Products Corporation, at the hearing before the T. N. E. C., on May 3, 1939, Mr. E. D. Montgomery, Director of Consumers Counsel, Division, A. A. A., referred to statements made by the Federal Trade Commission in its several reports on the milk industry during 1935 and 1936, to the effect that distributors underpaid farmers by paying for milk in one class and selling it in a higher-priced class and "not paying classified price". The most definite answer was made by Mr. Vernon F. Hovey, President of General Ice Cream Corporation and Vice President of National Dairy Products Corporation, who said: "That's not true in any subsidiary of National Dairy Products Corporation." (Verbatim Record T. N. E. C. hearing May 3, 1939). Mr. Montgomery had referred to the report on the St. Louis market in which the Federal Trade Commission had said:

"Two St. Louis distributors, however, sold substantial quantities of bottle fluid milk on retail and wholesale routes which were paid for at surplus milk prices during the year 1932 and the first six months of 1933. In this period two distributors sold 2,392,369 quarts of milk, paid for at surplus milk prices as bottle fluid milk, and this quantity was over 6% of their total bottle milk sales for the entire period." (F. T. C. Report on Sale of Milk in Boston, Baltimore, Cincinnati and St. Louis, June 4, 1936, p. 99.)

² For a more detailed explanation of Classified Sales Plan of determining prices paid dairy farmers for milk, see Report by Federal Trade Commission on Sale and Distribution of Milk and Dairy Products in Connecticut and Philadelphia, p. 28.

An examination of the files from which that statement was made indicates that the two companies were Highland Dairy Farms Company, St. Louis, Missouri, and St. Louis Dairy Company, also of St. Louis, both 100% owned subsidiaries of National Dairy Products Corporation. (F. T. C. Dairy Products 1934 Inquiry, Part 2; Tab. 5, Sai. 5, Part 1.)

The following tabular statement shows the quantity of milk paid for at Class 1 prices, the quantity of milk sold at wholesale and retail as fluid milk in bottles, and the quantity and amount of milk sold in fluid form in excess milk purchased at the higher Class 1 prices during the eighteen months, January 1, 1932 to June 30, 1933, in the St. Louis Market:

| Company | Base Milk Purchases at Class 1 Prices | Bottled Sales Wholesale and Retail | Fluid Milk Sales in Ex- cess of Class 1 Purchases | Under Pay- ment to Dairy Farmers |
|----------------------------------|---|--|--|---|
| St. Louis Dairy: | <i>Pounds</i> | <i>Pounds</i> | <i>Pounds</i> | <i>Dollars</i> |
| Total Yr. 1932..... | 33,529,800 | 36,063,876.40 | 2,534,076.40 | \$17,082.95 |
| Total 6 mo. '33..... | 14,966,512 | 16,863,017.60 | 1,896,505.60 | 7,870.76 |
| Grand total..... | 18,496,312 | 52,926,894.00 | 4,430,582.00 | 24,953.71 |
| Highland Dairy Farms Co.: | | | | |
| Total Yr. 1932..... | 18,277,322 | 19,323,815.00 | 1,046,493.00 | 6,819.63 |
| Total 6 mo. '33..... | 8,095,332 | 7,762,030 | 1,233,482.00 | 11,384.41 |
| Grand Total..... | 26,372,854 | 27,085,865 | 713,011.00 | 5,435.22 |
| Total of both Companies..... | 74,879,166 | 80,012,739 | 5,143,593 | 30,388.93 |
| Number Quarts ² | 34,822,867.90 | 37,215,236.74 | 2,392,368.84 | 30,388.93 |

¹ Negative figure.

² Computed at 2.15 lbs. per qt.

It should be noted that the quantity in quarts by which the milk sold in fluid form in bottles exceeded the quantity purchased at Class 1 price by 2,392,368.8 quarts, and that the amount by which the farmers were underpaid was \$30,388.93. The plan of settlement which enabled the distributors to underpay the farmers was explained by the Commission in the following language:

"Prior to the entrance of the Agricultural Adjustment Administration into St. Louis distributors determined the quantity of milk to be paid for at the class 1 price by applying a percentage to each producer's base, which was calculated each month, by dividing Class 1 sales by total producer basics. As the distributors included the basics of producers who did not deliver milk during the month in the percentage calculation, it is obvious that the application of the calculated percentage would result in less milk being paid for at the base price than was sold as Class 1. Furthermore, to the extent that producers failed to deliver their respective basics, the distributors were able to use, for Class 1 sales, deliveries in excess of their basics made by other producers and paid for at the surplus prices. Two distributors, St. Louis Dairy Co. and Highland Dairy Farms Co., during the year 1932 and the first 6 months of 1933, paid surplus milk prices for 2,392,369 quarts of milk which they had sold in bottles." (See ch. II, sec. 17.) (Federal Trade Commission Report on the Sale and Distribution of Milk and Milk Products in Boston, Baltimore, Cincinnati, and St. Louis, June 4, 1936, p. 5.)

Attention is called to the fact that the Federal Trade Commission, at the conclusion of its investigation made the following recommendation, among others:

"It is recommended that all sales of milk by cooperatives to distributors be covered by written contracts. Where the use made of the milk determines the prices paid producers, the contract should provide for complete reports by distributors to the cooperative, showing the quantity of milk used in each class and authorizing the cooperative association to make audits of the distributors' books to determine the correctness of such reports. Such audits should cover not only the quantities of milk sold or used by the distributor in each class but also the checking of quantities into dollar sales.

"The classified use plan of determining net blended prices to producers should not be used except where thorough and complete audits of distributors' books are made either by representatives of producers or by an independent accounting agency, to determine the correctness of the figures used in computing net blended prices paid producers." (F. T. C. Summary Report on Milk and Dairy Products, January 4, 1937, p. 37.)

VI

DISPOSITION OF SO-CALLED SURPLUS MILK

Mr. Montague, President of The Borden Company, in his testimony before TNEC on May 2, 1939, made the following statement:

"A casual opinion, unfounded in fact, has been expressed before this Committee that some dealers profit unduly from the sale of products manufactured from surplus. This assertion is at wide variance with the truth. The Borden Company, for example, maintains condensaries within or near metropolitan milk sheds for the sole purpose of absorbing frequent surpluses in fluid milk markets. It is at a constant disadvantage in doing so because its chief competitors in the manufacture of canned milk locate their plants and obtain their supplies largely in regions of low cost production, remote from city markets. I want to emphasize this: The Borden Company would not produce a single can of evaporated or condensed milk in fluid milk sheds were it not for the necessity of finding an outlet for the surplus of these markets." (Record TNEC, May 2, 1939.)

It is true that the cost of producing milk for the fluid milk market is higher than in the uninspected areas where farmers do not have to comply with health regulations. It is also true, however, that in the classified use plan of pricing milk, the prices paid for milk used for the manufacture of products other than fluid milk and fluid cream are based on prices paid farmers for such milk in the uninspected areas. In other words, by using this plan, Borden pays no more for milk used in the production of condensed and evaporated milk in the fluid milk areas than Borden pays for milk used for the same purpose at its plants located in non-inspected areas.

On the other hand, there may be another reason for large distributors processing the so-called surplus milk in fluid milk markets. Surplus milk processed by distributors is taken off the fluid milk market and cannot compete with distributors' sales of milk for fluid consumption. If distributors purchased only such milk as is required to supply their fluid milk and fluid cream customers, the organized groups of farmers might be able to process, sell, or otherwise dispose of their so-called surplus milk in competition with the distributors.

The Commission recommended in its Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, that

"Where adequate and satisfactory markets are not otherwise available, it is recommended that cooperative marketing associations be prepared to make arrangements to lease or acquire and operate such plants and equipment as may be necessary to process and handle all milk produced by members that cannot be satisfactorily disposed of otherwise." (F. T. C. Summary Report on Sale and Distribution of Milk and Dairy Products, Feb. 4, 1937, p. 36.)

DISPOSITION OF SURPLUS IN MINNEAPOLIS AND ST. PAUL, MINNESOTA

The Twin Cities Milk Producers Association, a dairy farmers' cooperative organization whose members produce fluid milk for the Minneapolis and St. Paul milk market, supplies approximately 85% of all the fluid milk requirements of these two cities. The method of selling milk by the Association to distributors was described by the Federal Trade Commission in its report on the Twin Cities market as follows:

"Officials of the Twin City Milk Producers Association meet at least once each month with distributors to agree upon prices to be paid to the association for fluid milk. Distributors have paid the association one price for one class of milk. No base and surplus plan, no class and use plan, no plan involving multiple prices has complicated the dealings between the association and distributors." (F. T. C. Report on Sale and Distribution of Milk and Milk Products, Twin Cities Area, June 13, 1936, p. 2.)

The Association operates 13 plants located at convenient points in the producing area, where the milk produced by its members and not sold to distributors under the above plan, usually referred to as surplus milk, is manufactured into butter, cheese, condensed milk, powdered milk, casein and other milk products which are sold in the open market. All of the milk produced by each member is accepted by the Association and no effort is made to control production by basic allotment, quota or otherwise.

NATIONAL DAIRY PRODUCTS CORPORATION SUBSIDIARIES PROCESS PRACTICALLY ALL OF SO-CALLED SURPLUS MILK IN THE BALTIMORE, MARYLAND, MARKET

In the Baltimore market where distributors purchase only their requirements for fluid milk and fluid cream, Fairfield Western Maryland Dairy Corporation (a subsidiary of National Dairy Products Corporation) distributes approximately 61 percent of the fluid milk and separates practically all of the so-called surplus milk for the account of Maryland Cooperative Milk Producers, Inc., delivering all of the cream to the cooperative and retaining the skim milk for its services. The effect of this plan was to keep this so-called surplus fluid milk off the market and out of competition (as fluid milk) with Fairfield Western Maryland Dairy Corporation, and enables the cooperating distributors to maintain a stabilized retail price for fluid milk. (F. T. C. Report on Concentration of Control over Sale and Distribution of Milk and Dairy Products, T. N. E. C. Exhibit No. 370).

NATIONAL DAIRY PRODUCTS CORPORATION SUBSIDIARY PROCESSES MORE THAN 83% OF THE SO-CALLED SURPLUS MILK IN WASHINGTON, D. C., MARKET

The same plan is followed in Washington, D. C., where the Chestnut Farms-Chevy Chase Dairy Company, also a subsidiary of National Dairy Products Corporation, supplies approximately 55 percent of the fluid milk consumed in Washington. During 1938, it separated 4,457,632 gallons of the total so-called surplus milk (5,368,999 gallons) reported as delivered by members of the Maryland & Virginia Milk Producers Association, or approximately 83 percent of the so-called surplus milk. It returned the cream to Maryland & Virginia Milk Producers Association, and retained the skim milk for its services and thereby kept this so-called surplus milk off the fluid market and out of competition with Chestnut Farms-Chevy Chase Dairy Company. (Reports of Audit by Norman E. Simpson, Accountant on the Staff of General Accounting Office for H. R. Subcommittee of Committee on District of Columbia investigating Milk, under H. Res. 113, 76th Cong., 1st Sess.) The effect of this plan was not only to keep the so-called surplus milk in the Washington milkshed off the market but also to prevent it going into the hands of other distributors for distribution as fluid cream which would have brought the farmers a higher price than the sale of such cream for manufacturing purposes.

Chestnut Farms-Chevy Chase Dairy Company, during 1938, returned to, or delivered to purchasers on the orders of the Maryland & Virginia Milk Producers Association, the following-so-called surplus milk products:

| | Cream Gallons | Milk Equivalent Gallons | | Cream Gallons | Milk Equivalent Gallons |
|-----------------|---------------|-------------------------|-----------------------------------|---------------|-------------------------|
| 20% Cream..... | 6,139 | 30,099.5 | 3.7% Milk..... | | 2,560 |
| 30% Cream..... | 520 | 3,900 | 3.9% Milk..... | | 4,880 |
| 38½% Cream..... | 600 | 5,705.7 | 4.0% Milk..... | | 17,940 |
| 39% Cream..... | 3,300 | 32,175 | 4.2% Milk..... | | 1,000 |
| 40% Cream..... | 413,719 | 4,065,162.2 | | | |
| 50% Cream..... | 15,420 | 192,750 | Total so-called Surplus Milk..... | | 4,457,632.4 |
| 3.6% Milk..... | | 71,460 | | | |

Practically all of the above cream was sold for use in manufacturing cream products. Only 100 gallons of the 38½% cream and 10 gallons of the 40% cream were delivered by Chestnut Farms-Chevy Chase Dairy Company to other fluid cream distributors in Washington, D. C. The quantities delivered to other subsidiaries of National Dairy Products Corporation were as follows:

| | 20% Cream Gallons | 39% Cream Gallons | 40% Cream Gallons |
|--|-------------------|-------------------|-------------------|
| Southern Dairies, Wash., D. C..... | | 800 | 23,497.5 |
| Rock Creek Dairy, Wash., D. C..... | 6,123 | | 14,000 |
| Castle Ice Cream Co., Garfield, N. J..... | | | 4,000 |
| Supplee-Willis-Jones Milk Co., Camden, N. J..... | | | 17,324.5 |
| Breakstone Bros., New York, N. Y..... | | | 17,000 |
| Breyer Ice Cream Co., Newark, N. J..... | | 1,600 | 71,117 |
| National Creamery Co., Somerville, Mass..... | | | 2,000 |
| Total..... | 6,129 | 2,400 | 149,929 |
| Percent of total product..... | 98.8% | 72.7% | 36.2% |

The bulk of the remaining cream was shipped to points outside of Washington, mainly to Newark and Paterson, N. J., New York, N. Y., and Baltimore, Maryland. (Reports of Audit by Norman E. Simpson, Accountant on the Staff of General Accounting Office for H. R. Subcommittee of Committee on District of Columbia, investigating Milk, Under H. Res. 113, 76th Cong. 1st Sess.)

Evidence presented before the House of Representatives Subcommittee on Public Health, Hospital and Charities of the Committee on the District of Columbia, indicated that the Maryland & Virginia Milk Producers Association refused to sell so-called surplus milk to Embassy Dairies, an independent distributor, except at the price of Class 1 milk and this distributor imported cream from outside the Washington milkshed for fluid cream sales, while the Association sold cream from so-called surplus milk for manufacturing purposes at a lower return to the dairy farmers. (Tr. of Hearings on House Res. 113, May 26, 1939, pp. 1217 ff.)

VII. DELIVERY TO HOMES VERSUS SALES TO STORES, INCLUDING CASH AND CARRY "DEPOTS"

Mr. Montague, in his testimony before T. N. E. C., May 2, 1939, submitted a chart (Exhibit 445) showing a comparison of the proportion of total fluid milk sales that were delivered to homes by distributors in 1927 with that of 1938. In 1927, according to this chart, 54% of the fluid milk sales in New York City was delivered by distributors to the doors of consumers, while 45% was sold to stores. In 1938, the retail routes delivered only 41.2% while the store sales amounted to 58.8% of the total (Verbatim Record, T. N. E. C., May 2, 1939.)

According to Mr. Montague, the cost to The Borden Company of delivering to stores is approximately 2.74¢ per quart, while the delivery to homes is 4.83¢ per quart in New York City. These costs are in addition to the cost of milk transportation to the pasteurizing plant and pasteurization, which Mr. Montague says, is substantially the same for both wholesale and retail milk. (Ibid. p. 99.)

Mr. Montague testified that in Chicago, where the labor cost was much higher than in New York City, the cost of delivering to stores was 3.2¢ as compared with the cost of 6.47¢ per quart for delivery to homes. In New York the route salesmen receive .76¢ per quart for delivering wholesale milk as against 2.3¢ per quart for delivering retail milk, while in Chicago, the route salesmen receive 1.78¢ per quart for delivering wholesale milk as compared with 4.01¢ per quart for delivering milk to the homes, a difference of 2.23¢ per quart. (Ibid.)

LARGE DISTRIBUTORS FORCED TO REDUCE FLUID MILK PRICES TO CONSUMERS IN DETROIT, MICHIGAN, THROUGH OPERATION OF MILK "DEPOTS" BY INDEPENDENT DISTRIBUTORS

Beginning with 1936, the practice of selling milk direct to the consumer through milk depots, was introduced in Detroit by George A. Johnson, proprietor of Johnson Milk Company, an independent distributor.

For several years prior to 1936, Mr. Johnson operated a milk distributing business under the name of "Modern Milk Company" in Grand Rapids, Michigan. His methods of doing business and especially distributing relief milk attracted considerable attention and on September 29, 1934, Dr. Frederick C. Howe, Consumers' Counsel, Agricultural Adjustment Administration, wrote the Mayor of Detroit in part as follows:

"An experiment has been made in the City of Grand Rapids by which the price of relief milk has been brought down to 5.2 cents a quart. The contractor says he is perfectly willing to sell commercial milk at this price, allowing himself a distribution spread of 1.2 cents instead of from 6 to 8 cents, which prevailed in many markets.

"I have no doubt, from what I've learned from many sources, that milk can be distributed over the counter at from 6 to 8 cents a quart. Mr. Johnson at Grand Rapids says that it can be distributed at 5 cents and still pay the farmer the prevailing price.

"Of course, any such attempt would immediately arouse the hostility of existing distributors and the organized opposition of the National Dairy Products Company, which is the dominant factor in the entire Michigan market." (F. T. C. File, T. N. E. C. Investigation, 1938—Det. 5, Mic. 7, Rep. 5)

In January, 1936, Mr. Johnson, having disposed of his business in Grand Rapids, went to Detroit, established a pasteurizing plant at Hamtramck, a separate municipal corporation within the city limits of Detroit, and began selling milk direct to consumer through what he called "depots", on a cash and carry

basis. (Record T. N. E. C. May 10, 1939.) As suggested by Dr. Howe, Mr. Johnson immediately aroused the hostility of existing distributors as well as Michigan Milk Producers Association, Inc. However, Johnson received encouragement and assistance from the prosecuting attorney for Wayne County, Michigan (in which Detroit is located), and has succeeded in building up a milk distributing business which now ranks fourth or fifth in volume of business among the milk dealers in Detroit. (Record, T. N. E. C., May 10, 1939.)

Milk handled by Johnson is pasteurized and bottled at the Hamtramck plant, in accordance with Detroit Health Regulations, and is sold direct to consumers at the plant and also at 41 other so-called "depots" or small retail stores located at various points in the Detroit metropolitan area, or it is used in the production of cream, butter and other milk products which are also sold direct to the consumers. Mr. Johnson stated that he tried to secure space located in the better districts to establish his "depots" and that he catered to all classes of trade. (F. T. C. Examiner's Rept. on Johnson Milk Co.)

The Johnson Milk Company purchased milk directly from independent dairy farmers (those not belonging to the Michigan Milk Producers Association), the milk being delivered direct from the farm, in cans, and taken to the pasteurizing plant. The farthest distance of any farmer from the plant was approximately fifty miles. The charges for hauling milk from farms to the plant were 35¢ per 100 lbs. from July 1, 1936, to April 1, 1938, when the hauling charge was reduced to 30¢ per 100 lbs. In a report to the Governor, during 1938, on the milk industry in Michigan, the State Attorney General said, with reference to George A. Johnson, owner of Johnson Milk Company:

"Johnson does not buy his milk on the base and surplus plan. He buys all of his milk on a flat price basis. The price he pays is usually 5 or 10 cents (per hundred pounds) higher than the blended base and surplus price received by producers selling through the Michigan Milk Producers Association." (Mimeograph copy of report on milk industry in Michigan by State Attorney General Raymond W. Starr to Governor Frank Murphy—page 54.)

It was alleged that the Johnson Milk Company purchased only such quantities of milk as could be sold for fluid consumption or so-called Class 1 milk, and cut off farmers if it found it was receiving more milk than could be sold in fluid form. (Record, T. N. E. C. May 1, 1939.)

The Johnson Milk Company furnished the Commission with a list of 559 dairy farmers from whom it purchased milk, delivered in Detroit, taking their entire production throughout the year. The Johnson Milk Company made use of all the milk produced by these farmers, selling whatever it could in the bottle as fluid milk and using the remainder in the manufacture of various milk products, including cream, buttermilk, chocolate milk and cottage cheese. (F. T. C. File, T. N. E. C. Investigation, 1938, Det. 5, Joh. 5, Rep. 5)

Recent investigation (F. T. C. File, T. N. E. C. Investigation, 1938) by the Commission of the milk purchased from dairy farmer patrons by the Johnson Milk Company during the months of July and October, 1938, and of January and April, 1939, showed the following results:

| | Total Purchases | Sales of Fluid Milk | | Milk Processed | |
|----------------|-----------------|---------------------|---------|----------------|---------|
| | Quarts | Quarts | Percent | Quarts | Percent |
| July 1938..... | 754,575 | 584,129 | 77.41 | 170,446 | 22.59 |
| Oct. 1938..... | 756,973 | 684,479 | 90.42 | 72,494 | 9.58 |
| Jan. 1939..... | 1,128,499 | 633,255 | 56.11 | 495,244 | 43.89 |
| Apr. 1939..... | 1,178,971 | 736,865 | 62.50 | 442,106 | 37.50 |

When Johnson Milk Company entered the Detroit milk market in January, 1936, the door delivery price of milk was 12¢ per quart, while the distributor's wholesale price to stores, restaurants and other large buyers was 10½¢ per quart. The Johnson Milk Company began immediately to sell milk from depots over the counter direct to the consumer at 8¢ per quart, requiring a deposit of 5¢ on the bottle which was returned to the customer when the bottle was returned. (F. T. C. File, T. N. E. C. Investigation, 1939, Det. 5, Joh. 5, Rep. 5)

Johnson Milk Company's retail price to consumers compared with the retail prices of The Borden Company and Detroit Creamery Company (a subsidiary of National Dairy Products Corporation) is shown in the following tabular statement:

[Each Price Effective Until the Next Change in Date]

| | Johnson Milk Co. | | | Borden Farm Products Co. | Detroit Cream. Co. Lawndale Stand. | |
|--------------------|------------------|-------|-------|-----------------------------------|---------------------------------------|-----------|
| | 3% | 3½% | 4% | Stand. approx. 3.7% | 3.2 to 3.5% | 3.6 to 4% |
| | Cents | Cents | Cents | Cents | Cents | Cents |
| Jan. 1, 1936..... | | 8 | | 12 | | 12 |
| Apr. 1, 1937..... | | 8 | | 13 | | 13 |
| Apr. 3, 1937..... | | 9 | | 13 | | 13 |
| May 1, 1937..... | | 9 | | 13 | 11 | 13 |
| May 25, 1937..... | | 7 | | 12 | 11 | 13 |
| July 16, 1937..... | | 8 | | 13 | 11 | 13 |
| Oct. 10, 1937..... | | 8 | | 13 | 12 | 13 |
| Oct. 12, 1937..... | | 9 | | 13 | 12 | 13 |
| Nov. 8, 1937..... | | 10 | | 13 | 12 | 13 |
| Nov. 15, 1937..... | | 10 | | 13 | 12 | 13 |
| Dec. 22, 1937..... | | 9 | | 13 | (1) | 13 |
| Jan. 22, 1938..... | | 9 | | 13 | 11 | 13 |
| Apr. 21, 1938..... | | | 9 | 13 | 11 | 13 |
| Apr. 29, 1938..... | 7 | | 9 | 13 | 11 | 13 |
| May 1, 1938..... | 7 | | 9 | 13 | 10 | 13 |
| May 18, 1938..... | 7 | | 9 | 11 | 10 | 11 |
| May 25, 1938..... | 7 | | 8 | 11 | 10 | 11 |
| June 1, 1938..... | 6 | | 8 | 11 | 10 | 11 |
| Nov. 1, 1938..... | 7 | | 9 | 11 | 10 | 11 |
| Nov. 12, 1938..... | 7 | | 8 | 11 | 10 | 11 |
| Nov. 16, 1938..... | 6 | | 8 | 11 | 10 | 11 |
| Nov. 24, 1938..... | 6 | 7 | 8 | 11 | 10 | 11 |
| Apr. 1, 1939..... | 6 | 7 | 8 | 9 | 10 | 11 |

¹ Discontinued November 20, 1937, to January 22, 1938.

When the Johnson Milk Company reduced the retail price of milk on May 25, 1937, from 9¢ to 7¢, the Detroit Creamery Company put out a new brand (Lawndale) at 11¢ per quart. At that time the Detroit Creamery Company was selling standard milk (said the average about 3.7% butter-fat) at 13¢ per quart. The Lawndale milk, according to information received from the Detroit Creamery Company, contained from 3.2 to 3.5% butter-fat. (Record, T. N. E. C. Mar. 10, 1939.)

Mr. George A. Johnson, in his testimony before T. N. E. C. on March 10, 1939, referred to Lawndale as a "phony" brand without the name of the company on the label. At the same time Mr. Johnson referred to a brand (Belle Isle) put on the market by Borden Farm Products Company of Michigan, a subsidiary of The Borden Company, which he also designated a "phony" brand, at a lower price to meet Johnson Milk Company competition. (Ibid.) Borden Milk Company officials claimed that this company had sold a low butter-fat content milk under the name of Belle Isle "off and on" for a number of years and that the price of this brand was uniformly 1¢ below Borden's price for standard grade milk. (F. T. C. File, T. N. E. C. Investigation, 1938, Det. 5, Bor. 5, Rep. 5)

Responding to questions by Commissioner Davis of the Federal Trade Commission as to whether or not Johnson had "uniformly paid the higher price for the milk received by him than the blended price of the Producers Association", Mr. Beach, testifying before T. N. E. C. on May 1, 1939, said in part:

"He probably on the average has. But while doing so, that means if you understand the blended process correctly, that he buys his milk for less (that goes into fluid milk sales) than what the distributors do that buy from the Michigan Milk Producers Association." (Record, T. N. E. C., May 1, 1939.)

If the cost for milk used by Johnson Milk Company for manufacturing purposes is computed on the basis of surplus prices paid farmer members by the Michigan Milk Producers Association and the remaining amount paid by Johnson to his

farmer patrons be applied to fluid milk during the months of July and October, 1938, and January and April, 1939, the results are as follows:

| | Quarts | Price Cents | Total |
|---------------|-----------|-------------|-------------|
| July 1938: | | | |
| Total..... | 754,575 | 3.23 | \$24,372.77 |
| Surplus..... | 170,446 | 2.7735 | 4,727.32 |
| Class 1..... | 584,129 | 3.363 | 19,645.45 |
| October 1938: | | | |
| Total..... | 750,973 | 3.23 | 24,450.23 |
| Surplus..... | 72,494 | 2.7735 | 2,010.62 |
| Class 1..... | 684,479 | 3.2783 | 22,439.61 |
| January 1939: | | | |
| Total..... | 1,128,409 | 3.44 | 38,338.97 |
| Surplus..... | 495,241 | 2.7735 | 13,735.59 |
| Class 1..... | 633,255 | 3.8899 | 24,623.38 |
| April 1939: | | | |
| Total..... | 1,178,971 | 3.23 | 38,080.76 |
| Surplus..... | 412,106 | 2.58 | 11,406.33 |
| Class 1..... | 736,865 | 3.6199 | 26,674.43 |

The difference between the prices paid by Johnson for fluid milk and Class 1 prices paid to association members by other dealers for the same months were as follows:

| | Class 1 Price Per Quart | Price Paid by Johnson Per Quart | Difference |
|-------------------|-------------------------------|---------------------------------------|--------------|
| | <i>Cents</i> | <i>Cents</i> | <i>Cents</i> |
| July 1938..... | 4.09 | 3.36 | 0.73 |
| October 1938..... | 4.09 | 3.28 | .81 |
| January 1939..... | 4.09 | 3.89 | .20 |
| April 1939..... | 4.09 | 3.62 | .47 |

The following tabulation shows consumer savings on purchases from Johnson Milk Company:

| | Regular Consumer Price per quart | Johnson Consumer Price per quart | Difference per quart |
|-------------------|---|---|-------------------------|
| | <i>Cents</i> | <i>Cents</i> | <i>Cents</i> |
| July 1938..... | 11 | 8 | 3 |
| October 1938..... | 11 | 8 | 3 |
| January 1939..... | 11 | 7 | 4 |
| April 1939..... | 11 | 7 | 4 |

Consumer savings per quart of milk purchased from "cash and carry" milk depots in excess of possible loss to dairy farmers resulting from Johnson not paying regular Class 1 prices for fluid milk during above months are shown in the following statement:

| | Consumer savings on Johnson milk | Johnson's price to producer below Class 1 price | Consumer savings ex- ceed pro- ducer loss |
|-------------------|---|---|--|
| | <i>Cents per qt.</i> | <i>Cents per qt.</i> | <i>Cents per qt.</i> |
| July 1938..... | 3 | .73 | 2.27 |
| October 1938..... | 3 | .81 | 2.19 |
| January 1939..... | 4 | .20 | 3.80 |
| April 1939..... | 4 | .47 | 3.53 |

Considering prices of fluid milk alone during the above four months, consumers' savings by purchasing from "cash and carry" depots exceeded any possible loss to producers, through payment by distributor of less than Class 1 prices for fluid milk, by the following amounts per quart of milk:

| | |
|-------------------|----------------------|
| July 1938..... | 2.27 cents per quart |
| October 1938..... | 2.19 cents per quart |
| January 1939..... | 3.80 cents per quart |
| April 1939..... | 3.53 cents per quart |

The above figures do not take into account the fact that "cash and carry" depot sales forced regular distributors to reduce the home delivered price of milk in Detroit by at least two cents per quart additional.

WAGES PAID BY JOHNSON MILK COMPANY

In a statement presented to the Temporary National Economic Committee by the United Dairy Workers of America, Local Industrial Union No. 83, by Leonard B. Netzorg and Davidow & Davidow, Detroit, Michigan, the following assertion was made:

"* * * if the books of Johnson Milk Company were examined, they would disclose that an employee bearing Federal Social Security No. 1 for the pay period ending December 31, 1938, worked 2 days and received a gross earning credit of \$5. From this amount, a Federal Tax of 5¢ was deducted and further deduction was made for breakage and reported shortage in the sum of \$3.33 with the result that this employee for 2 days of labor received \$1.62. This amounts to a daily wage, in the City of Detroit, of 81¢. To put it another way, the employee, assuming an 8 hour day, and the day was longer than that, worked for the sum of 10¢ per hour."

An examination of the records of the Johnson Milk Company with reference to the above statement disclosed the following facts:

The employee bearing Federal Social Security No. 1 was found to be a salesgirl. She entered the employ of the Johnson Milk Company on October 31, 1938, as a salesgirl in the milk depots at a wage of \$12 per week—6 days' work. On December 3, she completed her so-called training period, at which date her wages were increased to \$15 per week. She was discharged on December 27, 1938.

The records show that soon after this salesgirl entered the employ of the Johnson Milk Company, cash shortages occurred which eventually led to her discharge. The records show that during her period of employment, October 31, 1938, to December 27, 1938, wages were accrued and paid to her, less deductions as shown below:

| | |
|--|----------------|
| Wages..... | \$112. 00 |
| Commissions Earned..... | 2. 61 |
| Total Earnings..... | 114. 61 |
| Deductions: | |
| Social Security..... | 1. 12 |
| Cash Shortages..... | 4. 64 |
| Total Deductions..... | 5. 76 |
| Net amount paid..... | 108. 85 |
| Number of Days Worked (days)..... | 51 |
| Average amounts paid per day after deductions..... | \$2. 13 |

The average wage paid to this employee, during her entire term of employment amounted to \$2.24 per day; after making all deductions, she received \$2.13 per day and not 81¢ per day as alleged in the foregoing statement.

It was alleged by K. L. Vardon, President of the United Dairy Workers Union, in his testimony before the Temporary National Economic Committee (Record T. N. E. C. May 2, 1939) that plant employees of the Johnson Milk Company were required to work from 12 to 14 hours per day. It was inferred also in Mr. Vardon's testimony that the employees of the Johnson Milk Company received no annual vacations with pay.

An investigation was made of the above allegation whereby 16 of the plant employees of Johnson Milk Company were contacted and interviewed by an

¹ Number deleted by Federal Trade Commission in reporting its investigation.

examiner of the Commission. This investigation was made without previous notice to Johnson or any of his employees. These employees were interviewed separately and one at a time with no one present at the interview. Some of these employees had worked for the Johnson Milk Company for only a few months but others had been employed by the company or by another owned also by George A. Johnson, for a period of several years. Each and every one of the employees contacted by the examiner stated that he was not held strictly to any specific hours of duty. It was stated by some of the employees that they worked on an approximate average of from 8 to 9 hours per day—6 days per week; other employees stated that they were engaged on an approximate average of 9 to 10 hours per day—6 days per week.

Several of the employees stated that in some unusual instances they were required to work longer than the average period of from 8 to 10 hours per day, but that such instances were infrequent and were generally the results of breakdowns, etc. They stated, however, that they felt that any overtime thus required was more than compensated by days and half-days allowed them off duty occasionally (in addition to vacation time) without any reduction being made in their pay because of such occasional absences.

All of the employees contacted by the examiner stated that they were receiving or expected to receive annual vacations with pay after they had been employed by the Johnson Milk Company for a period of one year. During the year 1938, all of the employees who had been in the service of the company for approximately one year received a two-weeks vacation with pay. Many of the employees stated that at various times they had been ill, sometimes for periods as long as a week at a time, and that they received full pay during such periods—no deductions being made as a result of their absences from duty.

All of the employees contacted by the examiner stated that their duties were not unduly burdensome and that adequate help was always provided when and if increased work on the separate jobs necessitated additional help.

Sworn written statements were obtained from 4 of the employees (selected by the examiner as fairly representative of the group) substantiating their statements as outlined above. However, each of the other 12 employees interviewed stated that he was ready and willing to give sworn depositions substantiating the information given the examiner if such were desired.

A comparison was made of weekly wages paid by Johnson Milk Company (week ending April 15, 1939) with wages paid by the Borden Company in Detroit, Michigan, (week ending April 13, 1939) to truck drivers and helpers, the class most readily comparable, due to the unclassified nature of the duties of employees of Johnson Milk Company. The Borden Company operated under a contract with the Detroit Union (United Dairy Workers of America). The comparison follows:

Truck Drivers and Helpers

| Johnson Milk Co. ¹ | | The Borden Co. ² | |
|-------------------------------|---------------------------|-----------------------------|-----------------------------------|
| No. of Employees | Weekly Wages ³ | No. of Employees | Average weekly Wage (48 hr. week) |
| 9..... | \$44.00 | 3 (88¢ per hr.)..... | \$42.24 |
| 2..... | 42.00 | 7 (85¢ per hr.)..... | 40.80 |
| 6..... | 40.00 | 2 (83¢ per hr.)..... | 39.84 |
| | | 18 (82¢ per hr.)..... | 39.36 |
| Average, 17 (per wk.)..... | 42.35 | Average, 30 (per wk.)..... | 40.16 |

¹ F. T. C. file, T. N. E. C. Inv. 1938, Det. 5, Joh. 5, Rep. 5

² F. T. C. file, T. N. E. C. Inv. 1938, Det. 5, Bor. 5, Rep. 5

³ Actual hours employed per week not available; however see above facts relating to hours worked by plant employees of Johnson Milk Company.

The above figures show that the Johnson Company paid its truck drivers and helpers an average of \$42.35 each per week as compared with the average of \$40.16 paid by the Borden Company for its truck drivers and helpers.

The Johnson Milk Company has demonstrated that without reducing wages or materially reducing prices paid dairy farmers (see page 3222) a substantial reduction can be made in the price of milk to the consumer by the distributor selling direct to the consumer on the "cash and carry" basis, and still make fair profit.

AFFIDAVIT OF DUNCAN C. McCREA

IN THE MATTER OF THE TEMPORARY NATIONAL ECONOMIC COMMITTEE

STATE OF MICHIGAN,

County of Wayne, ss

DUNCAN C. McCREA, being first duly sworn, deposes and says:

That he is prosecuting attorney in and for the County of Wayne, Michigan, and has held that position since January 1st, 1935; and that he files this, his affidavit, in accordance with instructions received from the Temporary National Economic Committee.

Deponent states that shortly after his assuming his office the matter of the distribution of milk and the activities of the Milk Trust, so-called, first came to his attention. In order to give this committee the background existing at that time, deponent gives a brief history of the activities of the Metropolitan Detroit Milk Dealers, Inc., the Michigan Milk Bottle Exchange, and the Michigan Milk Producers Association, and the close working arrangement between these corporations and the State Bureau of Dairies Inspection Division and the Detroit Board of Health, and the services, ordinary and extraordinary, rendered to the three former corporations by the two latter governmental agencies.

Further, the Michigan Milk Bottle Exchange is a corporation organized under the Laws of the State of Michigan on the 8th day of August 1928, which was incorporated for the purpose of collecting, exchanging, and distributing to their proper owners milk bottles, cans, containers, etc., which are used in the milk industry; and operate upon a basis of charging the distributor 3¢ for each of his bottles handled by them and then, if he complied with all the rules and regulations of the Exchange, there was to be refunded to him the sum of 2½¢ per bottle.

Further, the Metropolitan Detroit Milk Dealers, Inc., was a corporation organized under the Laws of the State of Michigan, on the 23d day of November 1933. The Board of Directors of the Michigan Milk Bottle Exchange and the Metropolitan Detroit Milk Dealers, Inc., were, for the most part, the same, and the said Board of Directors was completely dominated by the National Dairies and Borden. Attached is a list of the Directors, marked "Exhibit A."

Further, that on February 7th, 1935, at a meeting of the Metropolitan Detroit Milk Dealers, Inc., held in the City of Detroit, it was voted by that organization to raise the price of standard pasteurized milk from 11 to 12 cents per quart. Deponent has been informed that Mr. Beach of the Michigan Milk Producers Association attended that meeting, and cards were ordered printed to give to each distributor to, in turn, be given by the dealers of milk to the customers, which card set forth the new price list and names of the creameries involved, and was signed by the Metropolitan Detroit Milk Dealers, Inc. Advertisements also appeared in the three local Detroit papers under date of Sunday, February 10th, 1935, and a statement was also given to the papers by Mr. Beach concerning the fact that the price of milk to the consumer was to be raised.

Deponent further states that upon receiving the above information he immediately notified all parties responsible to appear at his office, and upon their appearance advised them that what they had done was a violation of the Anti-Trust Laws of the State of Michigan and subjected them to prosecution; but that, in accordance with the policy of deponent's office, and being fully informed that prosecutions for violations of the Anti-Trust Law of the State of Michigan had been few and far between during deponent's predecessors' terms in office, told those parties interested that unless they undid the wrong done by them within forty-eight hours action would immediately be taken by deponent's office. That upon their refusal to comply with that order deponent immediately began an investigation of the activities of the various companies and agencies outlined above.

Deponent further states that as an Assistant Prosecutor prior to being elected to the office of Prosecuting Attorney, certain matters had come to his attention which gave him considerable information into the methods, manners, and operations of the so-called Milk Trust. That deponent had conducted an examination of the case of People against Milton Hoffman et al. (Recorder's Court File No. A-3970), wherein defendants were charged with conspiracy to cheat and defraud certain Dairy Companies, principally Borden's, United Dairies, and Ebling Creamery Co. Charges grew out of alleged stealing of milk bottles. At the examination it was developed that boys of the ages of 18 and 19 years were hired by the defendants to steal and deliver milk bottles to them; and that one of the young men used for this purpose was William Schweitzer who, in conjunction with three female companions, lured Howard Carter Dickinson, a nephew

of Chief Justice Charles E. Hughes, to his death in Detroit, and was prosecuted by deponent and sentenced to life imprisonment for murder in 1935. Among deponent's witnesses were the Chief Dairy Inspector for the State of Michigan and one, James Corbett, his Deputy, and at the conclusion of the testimony the defendants were bound over for jury trial. The testimony of Corbett, in substance, was that he was hired by the Chief Dairy Inspector upon the recommendation of the Dairy Research Bureau and the Detroit Chamber of Commerce; and that finding considerable difficulty in chasing and catching these stealers of milk bottles he was instructed by his superior to destroy their automobiles by placing emery dust in the engines of their cars, and that present at the discussion with his superior in the Board of Commerce Building were various representatives of the distributors of the City of Detroit, including representatives of Borden's and the National Dairy, who were all fully informed of the actions of the said Corbett.

Further, that some two months after the examination of the above cause and on October 19, 1932, while deponent was waiting for and had to try said cause, without the knowledge or consent of deponent, his principal witness James Corbett was arrested on the complaint of the defendant, Milton Hoffman, charged with malicious destruction of property, to wit, placing emery dust in the engine of a truck owned by Hoffman. And it is interesting to note that on October 24th, 1932, two days before the date set for Corbett's examination, without either the knowledge or consent of deponent, another Assistant Prosecutor moved the Court for an order of nolle prosequi in the conspiracy case against Hoffman, and the motion was granted.

Deponent further states that at the conclusion of the case in which Corbett was the defendant, the Judge refused to bind the defendant over and instructed the Assistant Prosecutor who was handling the case to advise why action was not taken against the other parties implicated along with Corbett, and the following day that Assistant Prosecutor appeared before the Court and advised the Court that a lengthy investigation by him indicated nothing that would justify the recommendation of other warrants, although at no time had any of the Assistant Prosecutors consulted deponent with reference to the investigation he had made in the original case; and thereafter Corbett was found guilty and served a minimum term of a year and a half in the State Penitentiary at Jackson, Michigan.

Further, it had always appeared to deponent that the dismissal of the conspiracy case and the prosecution of the Corbett case were somewhat strange to the normal procedure of a prosecuting attorney's office, and so when deponent began his investigation, after his election to the office of Prosecuting Attorney, he interviewed a considerable number of witnesses including Corbett and many hundreds of farmers in the Detroit Milk Shed as to their knowledge of the activities and irregularities perpetrated by the so-called Milk Trust.

Further, numerous complaints were received by deponent's office from customers and small distributors that the increase in price had been forced upon the public and the dealers without any justification; that the small distributors were coerced, intimidated, and subjected to many abuses through the activities of the Metropolitan Detroit Milk Dealers Association, the Michigan Milk Bottle Exchange, and the Michigan Milk Producers Association, and those working in close cooperation and harmony with them. That those distributors who refused and failed to comply with the dictation of the Trust were threatened and their institutions were bombed. Deponent submits a list of the bombings in the city of Detroit, marked "Exhibit B" and, in addition to that list, states that creameries were bombed in Mount Clemens and other cities adjacent to Detroit, outside of the County of Wayne, one of whom, Jefferson G. Brown, of Port Huron, Michigan, was engaged in the dairy business and selling milk to stores in East Detroit for about thirty days prior to April 18, 1935. His wholesale price to grocers was 8½ cents per quart, or 2 cents under that price established by the Metropolitan Detroit Milk Dealers, Inc., et al. He was threatened and intimidated and given rigorous and frequent inspections by the Inspectors of the State of Michigan and the Detroit Board of Health and, finally, it is significant to note, on Monday, April 15, 1935, Mr. Brown's dairy at Port Huron was bombed, causing damage of approximately \$500.

Further, deponent received many complaints from the small distributors that they had been fined by the Michigan Milk Bottle Exchange in various sums ranging from \$10 to \$500 for cutting prices below that fixed by the Metropolitan Milk Dealers, Inc. In one particular instance the Liberty Creamery had been fined on two different occasions the sum of \$500 for selling below the retail price established by the Trust in Detroit. That these fines and penalties were set and fixed at regular directors' meetings of the Michigan Milk Bottle Exchange and that if

the fine set by this body was not paid the Exchange withheld the bottles or smashed them, until the said fine was paid. In one instance deponent's investigation developed that 15,000 milk bottles belonging to one dairy had been hidden in a garage in an adjoining county by the Bottle Exchange as a punishment for failure to adhere to the established price, and that the owner of this garage was an employee of the Bottle Exchange.

Further, that the Michigan Milk Bottle Exchange collected membership dues for the Metropolitan Detroit Milk Dealers, Inc. and that, in addition to the fines and penalties, threatened the dealers that if they did not behave they would be subject to a loss of their entire trade discount. That the Bottle Exchange paid salaries and other expenses of the Metropolitan Milk Dealers, Inc. and the Michigan Milk Producers Association; that they influenced legislation pertaining to the milk industry by a system of so-called key men located throughout the State of Michigan; that they contributed large sums of money to be used for so-called expenses.

Further, that Deputy State Dairy Inspectors received as salaries from the State the sum of \$5 per month and their additional salaries and expenses were paid by the Michigan Milk Bottle Exchange. That the Chief Dairy Inspector received a salary of \$50 per month from the State and \$100 a month from the Michigan Milk Dealers Association; that his office rent, telephone, and other expenses were paid by T. H. Broughton, Manager of the Michigan Milk Bottle Exchange; paid part of the salary of the Secretary of the Metropolitan Detroit Milk Dealers, Inc. and worked in conjunction with State Senator J. Neal Lamereaux, President of the Michigan Milk Producers Association. This statement may be best understood by an excerpt from a letter from J. Neal Lamereaux to T. H. Broughton, Manager of the Michigan Milk Bottle Exchange, as follows:

"At a joint meeting of the Finance and Legislative Committee of this Association, it was decided that your district be assessed to the amount of \$3,000 in 1935.

"The 1935 State Legislature, which is now in session, will entail necessary immediate expense, and if it is not possible to send in the entire amount at once, do not fail to send at least \$500."

This shows the extent and ramifications of the Milk Trust, which extended even into our legislative bodies.

Further, that the Michigan Milk Bottle Exchange paid expenses and disbursements for various activities in Washington, D. C., for the combined interests of the Metropolitan Detroit Milk Dealers, Inc., Michigan Milk Producers Association and itself; in the month of November 1933 an amount of \$4,355.92; in the month of December 1933, an amount of \$5,444.48 and in the month of January 1934, an amount of \$3,453.69. And prior to that, for the period from May 27th to September 24th, 1933, a total of \$4,026.20. That among these items is one listed:

Hotel Statler, beer and telephone calls..... \$24.66

Further, that junk pickers and dealers, by and with the permission of the Milk Bottle Exchange, were issued licenses by the City of Detroit to collect milk bottles from alleys, etc., but if they handled bottles belonging to nonmembers of the Exchange they were threatened with a revocation of their license and prosecution for violation of the city ordinance.

Further, as all these complaints continued to grow in volume, deponent became convinced that the Metropolitan Detroit Milk Dealers, Inc., the Michigan Milk Bottle Exchange, the Michigan Milk Producers Association, and others were operating as a combination in restraint of trade and, accordingly, on March 25th, 1935, deponent filed a criminal complaint in the Recorder's Court for the City of Detroit charging a criminal conspiracy, the object and purpose of which was to unlawfully control the price of milk and dairy products. Arrests of the officers of the Michigan Milk Bottle Exchange and the Metropolitan Detroit Milk Dealers, Inc., were made and the books and records of the Bottle Exchange were seized. A motion was made by Counsel for defense to quash the complaint and warrant on the grounds, among others, that it did not charge a criminal offense.

Deponent next secured an inquisitorial tribunal; which is erroneously called a one-man grand jury, and sessions commenced April 18th, 1935. It continued for some time. They were conducted by the Court as quasi-public hearings, the testimony being taken privately but all information given to representatives of the various corporations which made up the Trust and copies of the testimony given to representatives of the Trust at the same time it was received by deponent. And, at the conclusion, the Judge having been beaten for reelection, no findings of fact or law were made by him and the records were left in the custody of his successor in office.

Further, the Metropolitan Detroit Milk Dealers, Inc., claimed that they were operating under what was known as a Code of Ethics, although this Code had been cancelled on January 1st, 1934 by the United States Secretary of Agriculture. The Trust, however, incorporated in a code of its own making a proviso in regard to price cutting, etc. and inaugurated the system of fines and penalties imposed by the Bottle Exchange, as heretofore outlined.

Deponent further states that, subsequent to the conclusion of the testimony before this inquisitorial tribunal, deponent made frequent and repeated requests for warrants, which are generally issued by the Courts upon the recommendation of the Prosecuting Attorney in writing, all of which requests were refused by the Courts, excepting that on one occasion one of the Judges of the Court accepted a complaint and signed the warrant, but several hours later refused to permit the execution of said warrant. Deponent is frank to state that he does not know why and he has no explanation to offer as to why warrants were refused in these instances.

That thereafter and on May 19th, 1935, deponent filed pro warranto proceedings in the Circuit Court for the County of Wayne against the Michigan Milk Bottle Exchange and the Metropolitan Detroit Milk Dealers, Inc., asking for revocation and forfeiture of their corporation franchise, the said proceedings being filed in accordance with the Statute which provides for such action by either the Attorney General of the State or the Prosecuting Attorney of the County. But, as to the Michigan Milk Bottle Exchange, upon motion, a Judge of the Circuit Court found that the Prosecuting Attorney for Wayne County was without authority to institute these proceedings and therefore dismissed the case.

Further, in the case of the Metropolitan Detroit Milk Dealers, Inc., a similar motion to dismiss was filed before a different Judge who held contrary to the opinion of the other Court, that the Prosecuting Attorney was a proper party to bring such proceedings, and upheld the right of deponent to do so, saying in effect that the issues were simple and could be tried expeditiously and should be. That thereafter a somewhat lengthy trial was had in that Court, where much evidence and argument concerning the A. A. A. and N. R. A. and other governmental activities were produced, and on March 8th, 1937, the following order was entered:

"It is adjudged by the Court now here that the said defendant corporation is *not guilty in such manner and form* as would warrant the Court in declaring a forfeiture of the corporation franchise."

And thereafter deponent continued his investigation and continued his close scrutiny of the acts of these said organizations, and several months later the Metropolitan Detroit Milk Dealers, Inc., voluntarily surrendered its charter to the State of Michigan and dissolved as a corporate entity, but has subsequent thereto and up until the present time continued many of its activities.

Deponent further states that at the beginning of deponent's investigation of the milk trust and the subsequent court action, the newspapers of the City of Detroit, and generally throughout the State, gave considerable publicity to the facts developed and the abuses made public. This publicity so alarmed the milk trusters that it was decided by those in command that something must be done to combat the public's opinion regarding the activities of the trust. A meeting was called in an adjoining county by Mr. B. F. Beach, manager of the Michigan Milk Producers Association, who demanded that the Michigan Milk Producers Association contribute a large sum of money to pay for an advertising campaign, the balance to be contributed by the Metropolitan Detroit Milk Dealers, Inc., for the purpose of running paid ads in the different newspapers; and thus, through this medium, counteracted the publicity which was appearing in the newspapers and, in the opinion of deponent, after running many half page, quarter page, and full page ads in the various papers, this action appeared to be successful and the publicity regarding the investigation was practically discontinued. That the control Mr. Beach holds over his Board of Directors is best exemplified by the stories in opinion of several who attended that meeting and later frankly to deponent that they were forced by Mr. Beach to vote in favor of using the farmers' money to advertise the distributor's product under the threat by Beech that if they did not do so they would sell surplus in place of base milk; and that it was only after these threats that they consented to vote in favor of the program of Mr. Beach.

Deponent further states, that during the years of deponent's investigation, which is still continuing at the present time, many hundreds, in fact thousands, of farmers belonging to the Michigan Milk Producers Association have informed deponent that the reason they were members of this Association was because they were forced under the threat of selling their milk as surplus or to the various cheese factories which are located at strategic points throughout the Detroit Market Shed, and owned by the Michigan Milk Producers Association and

managed by B. F. Beach. That they were frankly told by the said Beach to be good if they wanted to sell base milk, and that those of them who obey would receive the base price for practically all their milk.

Further, that deponent has interviewed hundreds and hundreds of farmers who are members of this Association and has been shown by them where their money was used to organize the Michigan Producers Dairy Company, which purchases milk from them at the lowest possible rate, and that this is one of the sources where they are forced to sell their milk if they fail to follow the instructions given them by the said Beech. That after their milk is sold to the above outfit at prices of manufactured milk, that the above company then hauls what is required to the various distributors in Detroit and delivers to them fluid milk. During deponent's investigation his agents followed tank wagons of the Michigan Producers Dairy Company and saw them delivering fluid milk to the distributors in Detroit. That deponent has spoken to thousands of farmers who frankly stated that they are not in sympathy with the activities of the said Beech and would not belong to the Association were it not for the fact that their market for milk would be taken away from them.

Further, that deponent's investigation establishes that the methods used of merchandising milk products are the most unfair and impractical business methods known to deponent; that the farmer is forced to ship his milk beginning the first of the month, all through that month, and then forty-five days later receives a check for whatever the distributor desires to pay him for it. He has no way of bargaining for his milk and does not know what he is to receive, and it is the claim of the great majority of these farmers that the only time any of them receive base milk price is when they wholeheartedly support Mr. Beach and his organization policies. And deponent calls attention to the committee that these statements are corroborated by the series of checks and statements which were introduced at the hearing under "Exhibit A" and consist of seven checks and statements marked "one to seven" inclusive, which show base prices of \$1.05, \$1.23, \$1.25, \$1.03, \$1.44, although at that time the official base price reported in the Michigan Market Messenger, the official organ of the Michigan Milk Producers Association, was \$1.68 to \$1.71. In fact the whole system of selling and purchasing dairy products is as crazy as that little booklet filed by the witness Beach when he stated that the facts and figures were simplified so that a six-year-old could understand it and, yet, several of the best economists in the government employ spent several days attempting to understand it and admitted that it was as clear as mud. And in that decision they agreed perfectly with the opinion of the great rank and file of farmers belonging to the Michigan Milk Producers Association.

Further, that in only two of those Exhibits, those marked "four" and "five," is any effort made to follow the base price as heretofore set forth, and those farmers are located in the district where the Johnson Milk Company purchases the most of its milk. It will be noted that the average test of each farmer there was 3.7, being 2 points in excess of 3.5 milk, adding 4¢ per point would give a base price of \$1.76, less pool and membership fees of 8¢, less freight charges of 18¢, or a net of \$1.50, as shown on the statements. The motive for the prices on those two Exhibits is apparent to deponent. Farmer John A. Jock, whose record is shown on the Bordens' check marked "two," undoubtedly would have enjoyed the testimony of the \$125,000-a-year President of Bordens complaining that the boy who delivers the milk in the city makes as high as \$7,000 a year on the milk that Farmer Jock received 85¢ for 46 quarts. The lines of Ralph Waldo Emerson's poem: " * * * Here once the embattled farmer stood and fired the shot heard around the world; * * *" come to deponent's mind at this time.

Deponent further states that the said Beach has been active in the attempt to raise the price to the consumer in the Detroit area every time a price increase was suggested, and has aided and abetted in the price-fixing activities of the Trust, and as late as March 1937, submitted a proposed contract for the supplying of milk in each dairy in the Detroit metropolitan area. Deponent made a careful analysis of the contract which would stifle all possible competition in the retail price for milk and preclude anything but a set milk price to the general public under the following language of the contract:

"The buyer hereby states to the seller that because of the price as agreed to be paid by him, his prices, wholesale and retail, effective as of the effective date of this agreement, are as follows:

"Retail per quart, cents plus tax.

"Wholesale per quart, cents (bottles)." /

That all of the proposed agreement was repugnant to law and, inasmuch as the Michigan Milk Producers Association was situated in a strategic position, would have stifled all possible competition; another deliberate attempt of the Michigan

Milk Producers Association and the Metropolitan Detroit Milk Dealers, Inc. to violate the statute of the State of Michigan.

Deponent again warned all parties, with the result that the proposed contract was abandoned; and yet it is claimed by the said Beech that the competition of the Johnson Milk Company will tend to put out of business the small distributors. This activity itself again establishes that the small distributors exist only at the sufferance of the Milk Trust.

Deponent was amused to hear the description given by Beach of the meeting held by him at Waldensburg, because deponent himself spoke to a large gathering of farmers the week prior to that meeting, in the same hall over the same beer garden, and the great majority of the same farmers attended the meeting. It was an orderly meeting and much interest was shown, and after deponent's talk, several members of the Board of Directors of the Michigan Milk Producers Association being present, repeated requests were made by the farmers for Mr. Beach to contradict the several things outlined by deponent, and the members of his Board were called upon but refused to make any comment concerning deponent's criticism of Michigan State House Bill 116. Deponent heard the said Beach testify that 95% of the members of the Michigan Milk Producers Association were in favor of House Bill 116. This statement is not true, as deponent verily believes from his conversation with the numerous farmers in the Detroit Milk Shed; that 75% of the members of the Michigan Milk Producers Association are opposed to House Bill 116 and look favorably upon Senate Bill 48; and that farmers who are members of the Michigan Milk Producers Association, upwards of 8,000, have joined the cause which favors Senate Bill 48. That the claim of Mr. Beach that the Johnson Milk Company influences the attendance at his meeting, from deponent's investigation, is untrue because deponent himself has spoken at many meetings to farmers during the past four years and has never witnessed any representative of the Johnson Milk Company present. In fact, deponent, prior to his recent trip to Washington, only recalls meeting Mr. Johnson on two prior occasions. That within the past ten days in the Capital of Michigan, the City of Lansing, more than 3,000 farmers congregated in the street, blocking traffic and protesting virgorously to any action on House Bill 116; and deponent has made a careful study of the said Bill, and a fair criticism of it, and states frankly and emphatically that the passage of this Bill into law would be dictatorial, arbitrary, discriminatory and, also, capricious legislation; would preclude fair competition in the milk industry; and would permit the Milk Trust to do, under the color of legality, the same and worse things than it heretofore has done illegally.

Deponent further states that in January 1936, the Johnson Milk Company opened its creamery in the City of Hamtramck and proceeded to organize its series of milk depots; and immediately the Milk Trust placed in operation in stores adjoining the buildings of Johnson lower prices for cash and carry milk than those established by Johnson. In other words, have competed with him from the time he first originated his milk depot idea.

Deponent knows that the Johnson Milk Company has paid the farmer more than the distributors of the City of Detroit have for his milk, and deponent has been informed by many hundreds of farmers that they have been treated fairly by the Johnson Company, and that they would like very much to sell their milk to that Company were it not for the threats of the Michigan Milk Producers Association. And deponent states, without any fear of contradiction, that any fair investigation will establish the fact that the recent extreme decreases in the price of milk to the consumer was brought about by the activities of the Milk Trust; and states that, in spite of the fact that the Department of Justice reported to the Governor of Michigan crediting deponent with breaking up the combine, deponent knows too well that the combine still exists though it operates much more carefully than it did prior to deponent's activities. And the proof of this is that the recent drastic price reduction for milk delivered to homes was brought about by representatives of the Borden Company and National Dairies, calling the smaller distributors into a meeting and stating to them that the following Monday the price reduction would go into effect; and that the United Dairy Workers, a Union which is supposed to work for better working and laboring conditions for its men, cooperated with the Trust by threatening drastic strikes and other activities, and of which Union Mr. Varden is the organizer.

Deponent further states that on several occasions since the Union was organized the said Varden has consulted with deponent with reference to setting or stabilizing prices on milk delivery to the homes. That on each of these occasions deponent has advised the said Varden that he would accomplish much more for the Union he is representing were he to confine himself to the proper activities of organized labor and let competition in the milk business be the concern of the

distributors; and that the activities of the said Varden savoured of being those activities usually employed by so-called company unions. Further, that deponent's attitude towards labor organizations in this community is too well known to merit comment but deponent was shocked to hear Mr. Varden state, under oath, that the cause of the collapse of the milk market was of Johnson's doing when the cause of the investigation established, beyond all doubt, that the collapse was deliberately caused by the same evil influences which completely dominated and controlled the milk industry in this section of the country, and which have heretofore been set forth.

Further, that during deponent's investigation he has learned of representatives of the Borden Company and the National Dairy attempting to persuade customers and farmers that the milk sold by the Johnson Company was not properly inspected and not properly purified; that he paid his labor starvation wages, that he paid the farmer little or nothing for his milk; all of which was deliberately done in their attempt to put out of business and discontinue a form of competition which is vital and necessary to the people of this community.

That deponent was shocked to hear the testimony of Varden to the effect that the Johnson Milk Company underpaid and overworked its employees, because the investigation by deponent has established that the plant employees of the Johnson Milk Company received a higher rate of wage for similar work than those members of the Union employed in the same occupation, and that the working conditions in the plants of the Johnson Company compared more favorably with each and every plant in the district. That the great majority of these employees have worked, directly or indirectly, for Johnson during the past fifteen years; and that, certainly, no fair investigation could or would establish the facts as outlined by the witness Varden.

Deponent further states that shortly after the Johnson Milk Company entered the Detroit market the Trust-controlled distributors produced, under various names, milk to be sold to the public containing as low as 3% butterfat, and that the Johnson Milk Company requested the Detroit City Council to cause to be placed on the milk cans the butterfat content contained in the bottle, claiming that the low butterfat content was caused by diluting the milk with skim milk, and on February 22nd, 1938, the following article appeared in the Detroit News:

"COUNCIL PLANS BAN ON 'DILUTED' MILK

"After hearing a complaint that some Detroit creameries are diluting natural milk with skim milk, the City Council Monday instructed Raymond J. Kelly, corporation counsel, to prepare an amendment to the milk ordinance increasing from 3 to 3.5 per cent the required butterfat content of milk sold in Detroit.

"George A. Johnson, proprietor of the Johnson Milk Co., made the complaint, saying the 'diluted' milk is being sold under new brand names at a cut rate.

"Dr. Henry F. Vaughan, health commissioner, verified Johnson's statement and said his department would 'have no objection' to an amendment increasing the required butterfat content.

"Vaughan explained that most natural milk contains about 3.6 percent butterfat although the present ordinance requires only 3 percent?

Deponent further says that he is well acquainted with the base and surplus plan of paying the farmer for his milk and can honestly testify that more than a reasonable profit can be made and is being made from manufactured byproducts to justify payment to the farmer on a base price only. And certainly, if a fair and equitable arrangement is to be made it must take into consideration first, a fair price to the producer; an equally fair price to the distributor; fair wages to the employees; besides selling the products at a reasonable rate to the consumer.

There is no justification for the feeling that exists in the mind of the Milk Trust, Mr. Beach, or Mr Varden, because when the price to the consumer delivered at his home was 11¢ per quart, the price at the Johnson Milk Company was 8¢ per quart, a differential of 3¢. And the only reason that price has been lowered is because of the tactics of the Milk Trust in all the ramifications in the conspiracy between the various companies seeking to raise and absolutely control and destroy competition, to the detriment of the consumer.

And further deponent saith not.

DUNCAN C. MCCREA.

Subscribed and sworn to before me this 5th day of May 1939.

[SEAL]

SAMUEL BREZNER,
Notary Public, County of Wayne.

My commission expires May 19, 1939.

EXHIBIT "A"

MEMBERS OF METROPOLITAN DETROIT MILK DEALERS, INC. WHO WERE ALSO
DIRECTORS OF MICHIGAN MILK BOTTLE EXCHANGE

Sylvester J. Affholter, Affholter Bros. Creamery.
 Stanley Babiarz, Liberty Dairy.
 Melvin J. Brown, Brown's Creamery.
 B. J. Degan, Mt. Clemens Dairy, Mt. Clemens.
 William L. Hartsick, Ideal Creamery.
 Henry Johnson, Wayne Creamery.
 William J. Kennedy, W. J. Kennedy Dairy Co.
 Frank G. Krueger, Krueger Creamery.
 George K. Lufty, Family Creamery Co.
 Joseph A. Morris, Mgr. & Vice Pres. C. F. Burger Creamery Company.
 Clements Philipski, Rosebud Creamery.
 Frederick A. Sweitzer, Sweitzer Creamery Co.
 Max Weiss, United Dairies, Inc.
 Charles L. Wilson, Ira Wilson & Son Dairy Co.

EXHIBIT "B"

DETROIT POLICE DEPARTMENT

Special Investigation Squad

Detective Division

MAY 17, 1935.

From: Detective Harrison J. Moody

To: Inspector John A. Hoffman

Subject: Report of Dynamite Bombings in Creameries from Sept. 3, 1930 to date

Sept. 3, 1930. Fair Creamery, 3465 E. Vernor Ave.
 June 16, 1932. Proctor Creamery, 5804 Proctor
 June 28, 1932. Mich. Farmer's Dairy, 6729 Strong Ave.
 July 9, 1932. Wolverine Creamery, Hendrie & Chene Sts.
 Sept. 27, 1932. West Warren Creamery, 6515 Proctor
 Oct. 4, 1932. United Dairies Cry., 950 E. Six Mile Rd., H. P.
 Dec. 19, 1932. West End Creamery, 741 West End Ave.
 Apr. 23, 1933. Boulevard Creamery, 2449 E. Grand Blvd.
 July 2, 1933. Fair Creamery (Attempt), 3455 E. Vernor Hi.
 Aug. 2, 1933. Family Creamery, 9025 Cardoni Ave.
 Jan. 16, 1934. Farmers Independent Cry., 5801 Grandy Ave.
 Jan. 18, 1934. White Star Creamery, 593 Kenilworth Ave. (Investigated
 mysterious fire).
 July 10, 1934. Capitol Ice Cream Co., 8534 McGraw Ave.
 July 19, 1934. Wilson Creamery, 13243 E. Warren Ave.

Respectfully submitted.

HARRISON J. MOODY, *Detective.*

EXHIBIT No. 435

FINANCIAL STATEMENT, MICHIGAN MILK PRODUCERS ASSOCIATION, BALANCE SHEET, SEPTEMBER 30, 1938

ASSETS

Current:

| | | | |
|------------------------------------|---------------|---------------|---------------|
| Cash on Hand..... | | \$60. 00 | |
| National Bank of Detroit..... | \$68, 845. 39 | | |
| To Trust Assets..... | 30, 616. 77 | | |
| | | \$38, 228. 62 | |
| Notes Receivable..... | | 400. 00 | |
| Accounts Receivable—Messenger..... | | 57. 68 | |
| Accounts Receivable—Other..... | | 1, 691. 05 | |
| | | | \$40, 437. 35 |

Invested assets:

| | | | |
|---------------------------|---------------|---------------|----------------|
| Bonds—Municipal, etc..... | \$75, 820. 55 | | |
| To Trust Assets..... | 20, 000. 00 | | |
| | | \$55, 820. 55 | |
| Stocks..... | | 12, 700. 00 | |
| Mortgages..... | | 10, 900. 78 | |
| Clifford Station..... | | 15, 765. 57 | |
| Trucking Equipment..... | | 1, 400. 23 | |
| Sandusky Station..... | | 15, 531. 20 | |
| Real Estate..... | | 3, 208. 07 | |
| Muskegon Trucks..... | | 3, 250. 00 | |
| | | | \$130, 576. 40 |
| Other Mortgages..... | | 12, 740. 39 | |
| | | | 12, 740. 39 |

Total association assets..... \$183, 754. 14

Trust assets—Farmers Insurance for Milk Payments:

| | | | |
|---------------------------------------|---------------|---------------|----------------|
| National Bank of Detroit—Balance..... | \$30, 616. 77 | | |
| Inlay City State Bank..... | 5, 000. 00 | | |
| Unified Debentures..... | 7, 000. 00 | | |
| Notes Receivable..... | 45, 000. 00 | | |
| Accounts Receivable..... | 27, 383. 23 | | |
| Bonds..... | \$75, 820. 55 | | |
| Less Applicable to Current Funds..... | 55, 820. 55 | | |
| | | \$20, 000. 00 | |
| | | | \$135, 000. 00 |

Total..... \$318, 754. 14

LIABILITIES, OPERATING SURPLUS AND TRUST FUNDS

Operating:

| | | | |
|-----------------------------|------------|--|--------------|
| Advertising Reserve..... | \$515. 58 | | |
| Muskegon Reserve..... | 1, 072. 61 | | |
| Old Age Pension Fund..... | 448. 02 | | |
| Unemployment Insurance..... | 708. 98 | | |
| | | | \$2, 745. 19 |

Association surplus..... \$181, 008. 95

Trust fund—Farmers Insurance for Milk Payments:

| | | | |
|-----------------|---------------|--|----------------|
| Contingent..... | \$10, 000. 00 | | |
| Guarantee..... | 100, 000. 00 | | |
| Quarantine..... | 25, 000. 00 | | |
| | | | \$135, 000. 00 |

Total..... \$318, 754. 14

REVENUE AND EXPENSE STATEMENT

Revenues:

Dues:

| | |
|----------------------------|--------------|
| Ann Arbor District..... | \$1, 902. 57 |
| Detroit District..... | 120, 921. 90 |
| Flint District..... | 3, 797. 85 |
| Grand Rapids District..... | 18, 304. 27 |
| Bay City District..... | 214. 08 |
| Saginaw District..... | 2, 296. 90 |
| Muskegon District..... | 6, 926. 99 |
| Battle Creek District..... | 4, 149. 65 |
| Lansing District..... | 830. 79 |
| Mich. Prod. Dairy..... | 6, 216. 31 |

\$165, 561. 31

Interest Income..... 10, 687. 19

Milk Messenger Income..... 1, 200. 10

Other Miscellaneous Income..... 2, 142. 95

Purchase Discount..... 161. 83

Total revenues..... \$179, 753. 38

Expenses:

Office:

| | |
|-----------------------------|---------------|
| Supplies..... | \$2, 746. 87 |
| Services..... | 406. 31 |
| Postage..... | 2, 312. 03 |
| Rent..... | 4, 500. 00 |
| Pay Roll—Office Employees.. | 11, 530. 19 |
| Telegrams and Telephone.... | 1, 816. 45 |
| | \$23, 311. 85 |

Salaries:

| | |
|--------------------------|---------------|
| Full Time Employees..... | \$28, 766. 32 |
| Part Time Employees..... | 1, 064. 10 |
| | 29, 830. 42 |

Traveling expense:

| | |
|------------------------|--------------|
| Regular Employees..... | \$5, 025. 05 |
| Special Employees..... | 661. 42 |
| | 5, 686. 47 |

Testing:

| | |
|---------------|--------------|
| Per diem..... | \$7, 587. 75 |
| Expense..... | 8, 837. 17 |
| | 16, 424. 92 |

Field Men:

| | |
|---------------|--------------|
| Per diem..... | \$2, 943. 42 |
| Expense..... | 4, 536. 99 |
| | 7, 480. 41 |

Sales Committee Men:

| | |
|---------------|--------------|
| Per diem..... | \$3, 374. 00 |
| Expense..... | 4, 877. 09 |
| | 8, 251. 09 |

Directors:

| | |
|---------------|--------------|
| Per diem..... | \$3, 626. 41 |
| Expense..... | 3, 869. 39 |
| | 7, 495. 80 |

Legal Services..... 3, 116. 69

Old Age Pension..... 487. 33

Unemployment Insurance..... 1, 798. 87

Insurance..... 1, 449. 25

Taxes..... 621. 66

Milk Messenger Expense..... 3, 931. 54

National and State Dues..... 4, 083. 72

Donations..... 114. 00

Periodicals..... 34. 72

General Expense..... 1, 460. 97

Car Maintenance and Repairs..... 476. 95

Annual Meeting..... 951. 63

REVENUE AND EXPENSE STATEMENT—continued

Expenses—Continued.

| | | |
|--|--------------|----------------|
| Auditing..... | \$250. 00 | |
| District Meetings..... | 1, 404. 28 | |
| Meeting Nat. Coop. M. Prod. Fed..... | 399. 15 | |
| American Inst. of Cooperation..... | 100. 00 | |
| Ann Arbor District Expense..... | 921. 93 | |
| Muskegon District Expense..... | 4, 734. 55 | |
| Flint District Expense..... | 2, 898. 53 | |
| Grand Rapids District Expense..... | 16, 237. 16 | |
| Saginaw District Expense..... | 1, 062. 25 | |
| Bay City District Expense..... | 112. 63 | |
| Battle Creek District Expense..... | 2, 459. 39 | |
| Lansing District Expense..... | 2, 636. 51 | |
| Mich. Prod. Dairy..... | 1, 797. 90 | |
| Total expense for period..... | | \$152, 022. 57 |
| Receipts over Expenditures for Fiscal Year..... | | 27, 730. 81 |
| 3% of Dues from April 1 to Oct. 1 transferred to Guarantee Fund..... | \$2, 805. 03 | |
| Amount transferred to Guarantee Fund to bring amount to \$100,000.00..... | 5, 976. 91 | |
| Amount transferred to Quarantine Fund to bring amount to \$25,000.00..... | 941. 76 | |
| Bad accounts charged off..... | 40. 62 | |
| | | 9, 764. 32 |
| Net surplus for year..... | | \$17, 966. 49 |

EXHIBIT No. 436

DETROIT MILK PRICES, HOW CALCULATED

FACTS AND FIGURES

(Michigan Milk Producers' Association, 406 Stephenson Building, Detroit, Michigan)

(By J. T. Horner, sketches ¹ by Ellen Whiting, December 1938)

In order to clear up any confusion which might exist in the minds of farmers as to how the prices paid them for milk delivered in the Detroit market are determined, the following explanation is made.

HOW DETROIT MILK PRICES ARE CALCULATED

The Michigan Milk Producers' Association has been operating in the Detroit market for more than twenty years. The association is made up of about 12,000 farmer members who select a Board of Directors and a Sales Committee to direct the activities of the organization and to sell the milk each month to the best advantage. There have been hundreds of men filling places on the Board and Committee. In consideration of the problems which confront them from month to month and from year to year certain terms and expressions have come to convey certain ideas. Words are used to express ideas. Certain terms are used by these men to convey certain ideas relative to the business of producing and selling milk. A terminology has grown up which expresses their ideas about the problems with which they are working from day to day.

¹ This exhibit was in the form of a booklet containing illustrative drawings not reproduced here.

Terms Used.—The meaning of the words and expressions used change from time to time. The ones in use this year may not be used in two or three years or they will be given a different meaning. The terms in common use today are:

Use Value
 Fluid Milk Sales, or Class I
 Excess Milk, or Class II
 Base Milk
 Surplus Milk
 Total Shipments
 Fluid Milk Price
 Excess Milk Price
 Base Price
 Surplus Price
 Evaporated Milk Code Price
 Pool
 Dues

Before we begin a discussion of how the milk prices are calculated let us get a clear understanding as to the meaning of these terms which are used in the Detroit milk market.

DEFINITION OF TERMS USED

I. Milk Classified as to Distributors' sales.

1. Use Value means that the milk is valued according to use to which it is put. All milk sold by the distributor as fluid milk is valued at one price and all milk which he receives in excess of his fluid milk sales is valued at another price.
2. Fluid Milk Sales, or Class I means all of the milk sold or distributed by distributors for consumption as whole milk. This is in quart, pint, 10-ounce, and one-half pint bottles, and in bulk to restaurants, hotels, and hospitals. It includes Vitamin D milk, Jersey milk, soft curd milk, and all other milk regardless of the butterfat test which is sold as whole milk not for manufacture or to be sold as other products. Class I milk does not include cream, buttermilk, chocolate milk or other special flavored milks or milk manufactured.
3. Excess Milk or Class II includes all of the milk which distributors purchase not included in Class I. It is the difference between total purchases and Class I Sales.

II. Milk Classified as to Farmers' Sales.

1. Base Milk is that quantity of total deliveries of milk equal to the sum of the delivered bases of individual producers. This term has nothing to do with the amount of the distributors' sales. It is a term which applies only to a part of the producers' shipments.
2. Surplus Milk is that quantity of total deliveries in excess of Base Milk. Total deliveries minus Base deliveries equals Surplus Milk. This term has nothing to do with the amount of excess purchases over sales of distributors. It is a term which applies only to a part of the producers' shipments.
3. Total Shipments is the sum of Base shipments and Surplus shipments.

III. Prices.

A. Distributors' Prices

1. Fluid Milk Price is the price at which Fluid Milk Sales are valued.
2. Excess Milk Price is the price at which all purchases in excess of fluid milk sales are valued.

B. Farmers' Prices

1. Base Price is the price paid farmers for Base milk.
2. Surplus Price is the price paid farmers for Surplus milk.

- C. Evaporated Milk Code Price. This term means the minimum price to be paid farmers for raw milk, testing 3.5 per cent butterfat, used in making Evaporated Milk in the Northeastern States. The price is based upon the wholesale price of Chicago 92 score butter and Plymouth, Wisconsin cheese and is calculated by the Organization of the Evaporated Milk Industry under the Agricultural Adjustment Administration. The price usually amounts to about 30 per cent above the wholesale price of Chicago 92 score butter.

IV. Deductions.

1. Pool means a fund created by deduction from the prices paid to the farmers to pay for handling the excess milk by the Michigan Milk Producers' Association.
2. *Dues*.—This is the amount which is deducted from the Base price and the Surplus price and paid to the Michigan Milk Producers' Association to pay the expenses of operating the association, to build up a fund to guarantee the pay to producers in event any distributor goes bankrupt, to support the Dairy Council, and to pay for the operations formerly performed by the Market Administrator.

BASIS OF PURCHASE AND SALE

In beginning a discussion of how the prices are calculated let us first get in mind that the milk is sold on one basis and paid for on an entirely different one.

1. The milk is sold to the distributors on a Use basis, but
2. The farmers are paid on a Base and Surplus plan.

Just what does this mean:

1. *Use Classification of Milk*.—Distributors pay for the milk according to the use which the total milk received in the market each month is put. The prices at which this milk is valued are set by bargaining. For example: for October, 1938, all milk sold as fluid milk was valued at \$1.90 a hundredweight, f. o. b. Detroit. All the milk received in excess of fluid milk sales was valued at the Evaporated Code price plus 15 cents, f. o. b. Detroit. The code price for October was \$1.18, plus 15 cents made the price of Excess milk \$1.33 delivered in Detroit.

2. *Base and Surplus*.—Farmers are paid a Base price for the milk which they ship not in excess of their previously established Base. They are paid a Surplus price for all shipments of milk made by them in excess of their established Base. The rules of the Sales Committee which applied in October were that all Surplus Milk be paid for at the Evaporated Code Price plus 15 cents, f. o. b. Detroit, and that the Base Milk be paid f. o. b. Detroit, the balance of the Use Value of the milk. Just how this price is arrived at will be explained further on in the discussion. The Base Price for October was \$1.71 and the Surplus Price was \$1.33. In October, 1938, the prices, as we have seen above, were \$1.90 for fluid milk sales and \$1.33 for all milk received in excess of fluid milk sales.

REPORTS FROM DEALERS

It is necessary to get reports from the distributors showing the following:

Base Purchases
Surplus Purchases
Total Purchases
Fluid Milk Sales
Excess over Fluid Sales

Blanks on which to make reports were sent out from the office of the Michigan Milk Producers' Association and these blanks were filled in with the required information and returned by 41 companies—every company doing business with the Association. These reports were received by the Association prior to November 7th. Upon receipt of the reports in the office a summary was made similar to the following:

| Company | Base Purchases | Surplus Purchases | Total Purchases | Fluid Milk Sales | Excess Milk |
|---------|----------------|-------------------|-----------------|------------------|---------------|
| | <i>Pounds</i> | <i>Pounds</i> | <i>Pounds</i> | <i>Pounds</i> | <i>Pounds</i> |
| A..... | 200,000 | 15,000 | 215,000 | 115,000 | 100,000 |
| B..... | 1,000,000 | 120,000 | 1,120,000 | 650,000 | 470,000 |
| C..... | 500,000 | 50,000 | 550,000 | 330,000 | 220,000 |

$$\text{Base Purchases} + \text{Surplus Purchases} = \text{Total Purchases} - \text{Fluid Milk Sales} = \text{Excess Milk}$$

When the summary, which included all the milk in the market handled by the 41 companies, was totaled it showed:

| | Pounds |
|---|--------------|
| Base Purchases..... | 47, 466, 589 |
| Excess over Base Purchases (surplus)..... | 4, 822, 253 |
| Total Purchases..... | 52, 288, 842 |
| Fluid Milk Sales..... | 31, 917, 157 |
| Excess over fluid sales..... | 20, 371, 685 |

PRICE CALCULATION

We now have the facts for making the price; that is, the number of pounds of fluid milk sold and the number of pounds of excess milk and the prices which the distributors are to pay for each class. The prices, you will recall, were \$1.90 a hundredweight for Fluid Milk Sales and \$1.33 a hundredweight for all in excess of fluid sales, f. o. b. Detroit.

The value of all milk in the market is arrived at by multiplying the pounds of fluid milk by the fluid milk price and adding to it the pounds of excess milk times the excess price as follows:

| | Pounds | Amount |
|--|--------------|----------------|
| Fluid Sales (at \$1.90)..... | 31, 917, 157 | \$606, 425. 98 |
| Excess over Fluid Sales (at \$1.33)..... | 20, 371, 685 | 270, 943. 41 |
| Value of Total Milk..... | 52, 288, 842 | \$877, 369. 39 |

We have now \$877,369.39 as the value of the milk according to its use. This is the amount which *all* of the distributors must pay *all* of the farmers for *all* of the milk delivered to them. If there were no Base and Surplus Plan in use in the Detroit market the distributors would pay for each one hundred pounds the result of dividing \$877,369.39 by 52,288,842 pounds which is \$1.68 per hundredweight.

But the members of the Michigan Milk Producers' Association in delegate meetings and acting through their Sales Committee have decided that each producer shall be rewarded for an even production of milk. They have said that the man who produces a more nearly even flow of milk should get more of his milk sold at the base price which is higher than the surplus price. It makes no difference to the distributors whether a base plan is in effect or not they would still have to pay \$877,369.39 for the milk they purchased in October, 1938. Under a flat rate plan they would pay, as has been shown, \$1.68 a hundredweight for all the milk. The base plan merely provides a different way of dividing up the \$877,369.39 in accordance with a previous production record of individual farmers.

The rate at which this is paid, or the price per hundredweight was determined as follows:

The value of 52,288,842 pounds of milk was \$877,369.39. We must take from this amount the value of 4,822,253 pounds of surplus milk. The complete calculation is as follows:

| | Pounds | Amount |
|-------------------------------|--------------|----------------|
| Fluid Sales (at \$1.90)..... | 31, 917, 157 | \$606, 425. 98 |
| Excess Milk (at \$1.33)..... | 20, 371, 685 | 270, 943. 41 |
| Total Milk..... | 52, 288, 842 | \$877, 369. 39 |
| Surplus Milk (at \$1.33)..... | 4, 822, 253 | 64, 135. 96 |
| Base Milk..... | 47, 466, 589 | \$813, 233. 43 |

The base milk, 47,466,589 pounds was worth \$813,233.43. One hundred pounds of Base milk was worth \$813,233.43 divided by 47,466,589 pounds of Base or \$1.71 a hundredweight.

(See Charts No. 1 and No. 2.)

Total 52,288,842 pounds

| |
|-------------------|
| Class II |
| Excess Milk |
| 20,371,685 Pounds |
| Class I |
| Fluid Sales |
| 31,917,157 Pounds |

Total 52,288,842 pounds

| |
|-------------------|
| Surplus |
| 4,822,253 Pounds |
| Base |
| 47,466,589 Pounds |

Chart No. 1.—The above Chart shows how the milk is divided between Fluid Sales and Excess Milk on the one hand and between Base and Surplus on the other.

Total use value
\$877,369.39

| |
|--------------|
| Class II |
| Excess Milk |
| \$270,943.41 |
| Class I |
| Fluid Sales |
| \$606,425.98 |

Total base and surplus
\$877,369.39

| |
|--------------|
| Surplus |
| \$64,135.96 |
| Base |
| \$813,233.43 |

Chart No. 2.—The above Chart shows the value of Fluid Milk Sales and Excess Milk and the same amount divided between Base Milk and Surplus Milk.

Total use value of all
received \$877,369.39

| |
|-----------------------------------|
| For Class II (Excess Milk) |
| \$270,943.41 |
| For Class I (Fluid Milk Sales) |
| \$606,425.98 |

Total paid \$875,814.64.
Shortage due to dropping fraction \$1,554.75.
Total \$877,369.39

| |
|---------------------|
| Dues \$15,686.65 |
| Pool \$20,915.54 |
| Surplus \$60,760.39 |
| Base |
| \$778,452.06 |

What the distributors
payHow the distributors
pay

Chart No. 3.—The Distributors' Use Value of Milk was \$877,369.39.

| | |
|-------------------|--------------|
| They paid for— | |
| Base Milk..... | \$778,452.06 |
| Surplus Milk..... | 60,760.39 |
| Pool..... | 20,915.54 |
| Dues..... | 15,686.65 |
| Total Paid..... | \$875,814.64 |
| Short..... | 1,554.75 |
| | \$877,369.39 |

The Base Price figured \$1.7132754 and payment was made to the nearest cent or \$1.71 with the result that the amount the distributors paid was short \$1,554.75 of their Use Value. In November 1938 the amount they paid was \$1,144.31 more than their Use Value. The amounts of the shortages and overages, due to dropping and adding the fractions are just about equal.

POOL DEDUCTION

There was deducted 4 cents from the \$1.71 base price and \$1.33 surplus price for the pool to pay for handling the milk which had to be manufactured by the Michigan Milk Producers Association. These deductions made the net prices as follows:

| | Base price | Surplus price |
|----------------------|------------|---------------|
| Gross Price..... | \$1. 71 | \$1. 33 |
| Pool Deduction..... | .04 | .04 |
| Price Less Pool..... | \$1. 67 | \$1. 29 |

Deduction for Association dues was 3 cents per hundredweight. With the dues deducted the *net* price was as follows:

| | Base price | Surplus price |
|----------------------|------------|---------------|
| Price Less Pool..... | \$1. 67 | \$1. 29 |
| Less Dues..... | .03 | .03 |
| Net Price..... | \$1. 64 | \$1. 26 |

The essential price factors:

- I. *Base and Surplus Plan.*—The members of the Michigan Milk Producers' Association decided on a Base and Surplus Plan making a base price and a surplus price necessary.
- II. *Use Classification Method of Sale.*—The Sales Committee decided upon a classification plan of selling milk to the distributors according to use. That plan provides for a price for fluid milk sales and a price for all milk purchased in excess of fluid milk sales.
- III. *Class Prices Set by Bargaining.*—The Sales Committee bargains with the distributors as to the prices which will apply upon the two classes. Prices f. o. b. Detroit, for October, 1938, were:

| | |
|------------------------------------|--|
| Class I, Fluid Sales..... | \$1. 90 |
| Class II, Excess over Fluid, Sales | { Evaporated Code Price plus 15 cents |
- IV. *The Organization of the Evaporated Industry* of the Agricultural Adjustment Administration reported on November 1, that the Evaporated Code Price was \$1.18. This code price plus 15 cents makes \$1.33 f. o. b. Detroit for Class II milk.
- V. *Surplus Price or Price Bases.*—The Sales Committee decided what was the surplus milk price or the basis of the surplus price. For October, 1938 the basis was Evaporated Code Price plus 15 cents f. o. b. Detroit and the price was \$1.33 f. o. b. Detroit—the same as the Excess Milk price.
- VI. With these three prices known:
 1. Fluid Milk, Class I
 2. Excess Milk, Class II
 3. Surplus Milk
 And with these four quantities known:
 1. Fluid Milk Sales in Pounds
 2. Excess Milk in Pounds
 3. Base Milk Deliveries in Pounds
 4. Surplus Milk Deliveries in Pounds

it is only a matter of calculation to determine the Base Price as has been shown above.

VERIFICATION OF DEALERS' REPORTS

How does the Association know that the reports received from the dealers and used in arriving at the prices are correct?

Each month the Association's auditors check the records of the purchases and the sales of each reporting company to see that no errors were made in the reports. In making this audit of each company's records, the auditor checks the original sales slip into the summary reports to see that the sales are reported correctly. He checks, also, the purchase records to verify the correctness of the quantities of Base milk and Surplus milk reported and sees that the correct price is paid the farmer for each class of milk.

DIFFERENCES IN PRICE

The association believes that each farmer should receive the same price for his milk as all other farmers receive after taking into consideration the test of his milk, the distance of the country stations from which he ships, the distance from his farm to the country station and variations in base. Let us see just what effect these factors have on the net price which the farmer receives at his farm for milk sold.

The October 1938 prices for milk testing 3.5 delivered in Detroit were as follows:

| | Base | Surplus |
|--------------------|--------|---------|
| Gross Price..... | \$1.71 | \$1.33 |
| Less for Pool..... | 0.04 | 0.04 |
| Less for Dues..... | .03 | .03 |
| | .07 | .07 |
| | \$1.64 | \$1.26 |

With these net prices as a basis, what do the different deductions for freight, hauling, and butterfat test for milk testing below 3.5 percent—and additions for milk testing above 3.5 percent, amount to?

Let us start with the deduction for freight. The basis used is 3.5 per cent butterfat and f. o. b. Detroit unless otherwise stated.

1. EFFECT OF DEDUCTION FOR FREIGHT

| | F. O. B. Detroit | Freight 14c | Freight 20c | Freight 27c |
|-------------------|---------------------|----------------|----------------|----------------|
| Base Milk..... | \$1.64 | \$1.50 | \$1.44 | \$1.37 |
| Surplus milk..... | 1.26 | 1.12 | 1.06 | .99 |

There is a difference of 13 cents in the price of Base and Surplus milk depending upon the country station to which it is delivered.

2. EFFECT OF DEDUCTION FOR HAULING FROM THE FARM TO THE COUNTRY STATION

It is assumed that the hauling rates vary from 12 cents to 25 cents. If you pay a lower or higher rate than the ones used in the illustration, make an adjustment for the difference in the hauling rate. If you haul your own milk, you would receive the Station Price. The Base Milk price f. o. b. Detroit was \$1.64. In the different freight and hauling zones base milk was worth, at the farm, the following amounts:

| Freight Zone | Station Price | 12c Haul | 15c Haul | 20c Haul | 25c Haul |
|--------------|------------------|-------------|-------------|-------------|-------------|
| 14c..... | \$1.50 | \$1.38 | \$1.35 | \$1.30 | \$1.25 |
| 20c..... | 1.44 | 1.32 | 1.29 | 1.24 | 1.19 |
| 27c..... | 1.37 | 1.25 | 1.22 | 1.17 | 1.12 |

The Surplus Milk price f. o. b. Detroit was \$1.26.

In the different freight and hauling zones surplus milk was worth, at the farm, the following amounts:

| Freight Zone | Station Price | 12c Haul | 15c Haul | 20c Haul | 25c Haul |
|--------------|---------------|----------|----------|----------|----------|
| 14c..... | \$1. 12 | \$1. 00 | \$0. 97 | \$0. 92 | \$0. 87 |
| 20c..... | 1. 06 | . 94 | . 91 | . 86 | . 81 |
| 27c..... | . 99 | . 87 | . 84 | . 79 | . 74 |

3. EFFECT OF VARIATIONS IN BUTTERFAT TEST OF MILK

A butterfat differential of four cents a point above or below 3.5 per cent prevails in the Detroit market on the present butter market.

The prices, f. o. b. Detroit, for milk of different test, were as follows:

| | 3.0 | 3.5 | 4.0 | 4.5 | 5.0 | 5.5 |
|-------------------|---------|---------|---------|---------|---------|---------|
| Base Milk..... | \$1. 44 | \$1. 64 | \$1. 84 | \$2. 04 | \$2. 24 | \$2. 44 |
| Surplus Milk..... | 1. 06 | 1. 26 | 1. 46 | 1. 66 | 1. 86 | 2. 06 |

4. EFFECT OF PER CENT OF BASE WHICH DIFFERENT SHIPPERS HAVE

Some shippers have all base milk so the price they received in October is the amount given above for Base milk, \$1.64 f. o. b. Detroit. Other shippers have varying amounts of base and surplus milk. The average for the market was Base 90.72 per cent and Surplus 9.28 per cent, so the average shipper price received for all milk was \$1.61 f. o. b. Detroit for 3.5 per cent milk.

Calculation as follows:

| Pounds | Price | Amount |
|----------|---------|-----------|
| 90. 72 @ | \$1. 64 | = \$1. 49 |
| 9. 28 @ | 1. 26 | = . 12 |
| 100. 00 | | = \$1. 61 |

There were, probably, some shippers in the market who had a Base of only 50 per cent of total shipments—that is, out of each 100 pounds shipped 50 pounds were Base and 50 pounds were Surplus. In that event, their average price for the 100 pounds would have been \$1.45, f. o. b. Detroit for 3.5 per cent milk. The calculation would be as follows:

| Pounds | Price | Amount |
|-------------------------|---------|-----------|
| 50 at the Base Price | \$1. 64 | = \$0. 82 |
| 50 at the Surplus Price | 1. 26 | = . 63 |
| 100 | | = \$1. 45 |

The variation then, because of varying percentages of base of total shipments, would be from \$1.64 to \$1.45, or 19 cents, f. o. b. Detroit for 3.5 per cent milk.

We are ready now to figure the variation in net price at the farm because of the varying conditions of percent of Base of total shipments, freight, hauling, and butter fat test of milk.

Assuming that the highest butter fat test is 5.5 per cent and the lowest 3.0 per cent, the highest net price at the farm would be figured as follows:

| | |
|--|---------|
| Price All Base Milk, 3.5 test, f. o. b. Detroit..... | \$1. 64 |
| Add for 20 points above 3.5 at 4c a point..... | . 80 |
| Price All Base Milk, 5. 5 test, f. o. b. Detroit..... | \$2. 44 |
| Less freight from nearest station..... | . 14 |
| Price All Base Milk, 5.5 test, f. o. b. country station..... | \$2. 30 |

If the farmer hauled his milk to the station himself, he would receive \$2.30 because there would be no deduction for hauling. No effort is made here to estimate costs; but merely calculate what the farmer actually receives.

The lowest net price, 50 per cent of deliveries being Base and 50 per cent Surplus, would be:

| | |
|---|---------|
| Price, f. o. b. Detroit, for 3.5% milk..... | \$1. 45 |
| Deduct for 5 points below 3.5% at 4c a point..... | . 20 |
| Price, f. o. b. Detroit, for 3.0% milk..... | 1. 25 |
| Less freight from farthest station..... | . 27 |
| Price, f. o. b. country station, for 3.0% milk..... | . 98 |
| Less hauling from farm to country station..... | . 25 |
| Price net at farm for 3.0% milk..... | . 73 |

The average producer shipped milk testing 3.9 per cent in October and had 90.72 pounds of Base and 9.28 pounds of Surplus out of each 100 pounds shipped. The average freight rate was 20c and the average haul was 20c. With these conditions prevailing, the following calculation shows what the average shipper received:

| | |
|--|---------|
| 90.72 Base Milk testing 3.5% @ 1.64..... | \$1. 49 |
| 9.28 Surplus Milk testing 3.5% @ 1.26..... | . 12 |
| Price All Milk 3.5 test, f. o. b. city..... | \$1. 61 |
| Add for 4 points of butter fat @ .04..... | . 16 |
| Price All Milk 3.9 test, f. o. b. city..... | \$1. 77 |
| Less average freight..... | . 20 |
| Price All Milk 3.9 test, f. o. b. country station..... | \$1. 57 |
| Less average haul..... | . 20 |
| Price All Milk 3.9 test at farm..... | \$1. 37 |
| October, 1938: | |
| The highest net farm price was..... | \$2. 30 |
| The lowest net farm price was..... | . 73 |
| The average net farm price was..... | 1. 37 |

There was a difference of \$1.57 between the highest and lowest net farm price received in October, 1938. No attempt is made here to take costs of the different operations into consideration.

The net farm price which the farmer receives varies according to the following conditions:

1. The higher the test the higher the net farm price.
2. The greater the percentage of base milk shipped the higher the net farm price.
3. The higher the freight the lower the net farm price.
4. The higher the rate charged for hauling from farm to country station the lower the net farm price.
5. The producer who hauls his milk to the country station will receive a higher net farm price—other factors being the same—than the producer who pays for this hauling.

It is hoped that the above explanation has helped to clear up some of the doubtful points. At best the method of calculating the Detroit milk prices are confusing even to a person who is familiar with the details of the plan.

If you have any questions about the plan or the methods of calculating the prices under the plan, write to the Michigan Milk Producers' Association and an attempt will be made to answer your inquiry.

[Faint, illegible handwritten text at the bottom of the page]

"EXHIBIT No. 438", introduced on p. 2937, is on file with the committee.

EXHIBIT No. 439

MICHIGAN MILK PRODUCERS ASSOCIATION,
Detroit, Mich., August 10, 1938.

JOHNSON MILK COMPANY,
3300 Caniff Avenue, Detroit, Michigan.
(Attention Mr. Geo. A. Johnson.)

GENTLEMEN: We are in receipt of your letter relative to purchasing milk either from the Michigan Milk Producers Association or from milk dealers of Detroit. Speaking from the standpoint of the Michigan Milk Producers Association, I wish to say that we can and are willing to supply you with milk. Any milk which we furnish to you will be sold to you at the same price and under the same conditions as we sell to other dealers to whom we sell in Detroit.

You state you want milk from 200 additional farms. At 200 lbs. per day, per farm, this is 40,000 lbs. of milk daily. We will furnish that quantity, subject to modifications mentioned herein, and you will agree to purchase and pay for same for the period of one year from date. The modification in amount that we sell to you and that you purchase from us is to be in accordance with the changes in total amount of production per dairy farm produced for the market. That is, if production per dairy farm is lowered then the amount which we will sell to you and the amount which you will purchase from us will be less than 40,000 lbs. by the same proportion. Likewise, if the amount per dairy farm increases the amount that you will purchase from us and that we will sell to you will be increased in proportion.

The price on this milk at the present time and until changed to other buyers will be \$1.90 per cwt. for 3.5% milk, delivered Detroit, for that portion used in fluid sales, and the balance will be at the condensery code price, plus 15¢, delivered Detroit, and that at the present time is \$1.33 for 3.5% milk. The basis of settlement will be directly in proportion to your total purchases and the use to which the milk is put, however, the proportion for your company to be paid for in Class I is not to be less than the proportion of Class I to the total sales by the Association to all other dealers in the Detroit market. For each 1/10th of one percent that the milk tests above 3.5%, 4¢ will be added; and for each 1/10th of one percent that the milk tests below 3.5%, 4¢ will be deducted from these prices.

Our tester will make the tests on milk delivered to you and you may make such check-tests as you desire, but the tests of our tester will prevail as being those upon which payment is to be made. Should differences occur in the matter of test, and if your tester and our tester in check-testing against each other are unable to agree as to the proper test, this matter will be referred to the Commissioner of Agriculture of the State of Michigan for adjudication and settlement.

Inasmuch as the basis of making payment to a great extent is in accordance to the use to which the milk is put, you will keep sufficient records so to allow our auditor to make proper audit, and this information will be furnished to the Association upon the same forms and in the same manner as is the case with other dealers to whom we sell milk. Our auditor shall have the privilege of entering your plant at any time during regular business hours and making the audit to verify the statement rendered.

If the milk is hauled directly from the farms to your plant the prices quoted above are net. If the milk is delivered to a receiving station and then hauled by tank truck to your plant the receiving station cost of 9¢ per cwt. is added to the prices quoted above.

The basis of settlement for this milk will be cash daily, or upon your establishing credit with us, such credit as you might be entitled to would be extended within reasonable limitations.

If you wish to purchase milk from the Michigan Milk Producers Association as herein set forth you may do so by signing this letter, showing acceptance of same.

Yours very truly

MICHIGAN MILK PRODUCERS ASSOCIATION,
B. F. BEACH, *Secretary-Manager.*

EXHIBIT No. 440

JOHNSON MILK COMPANY,
Detroit, Michigan, April 20, 1939.

FEDERAL TRADE COMMISSION,
Apex Building, Washington, D. C.

GENTLEMEN: We discontinued producers hauled by Mr. Murray W. Hess as per enclosed list of names because we felt that Mr. Hess was too friendly with our competitors and Mr. Beach of the Michigan Milk Producers Association. He was always knocking me and complained to the rest of the haulers delivering milk to the Johnson Milk Co. His farmers were always paid promptly and on time. They were paid on the 20th of the month for the milk delivered from the 1st to the 15th and they were paid on the 5th of the month for milk delivered from the 16th to the 31st. Another thing, I did not know until the last that he only owned part of the route and that another man owned another smaller part, a man by the name of Glenn A. Fisher.

I gave Mr. Murray W. Hess over a month's notice to take his route to someone else as he had told me many times that he was going to quit as it did not pay. Murray Hess told me that he was able to take his route to VanCamps at Hudson, Producers Dairy at Adrian, or to Driggs at Toledo, Ohio, and so I cannot see why there should be any hardship to him. I sent a telegram two days before his month's notice was up to remind him of what I had done.

Subsequently I found that my suspicions of his close contact with Mr. Beach of the Michigan Milk Producers Association were correct and my only regret is that I did not get rid of him sooner. At the present time I think we have one more Stool Pidgeon for some of our competitors working for me as we have had accidents happen to our products and various information given of our plans which could only come from someone very closely connected with the Johnson Milk Company.

Mr. Beach has this telegram which I sent to Mr. Hess and is exhibiting it on every and all occasions possible.

Respectfully,

GEO. A. JOHNSON.

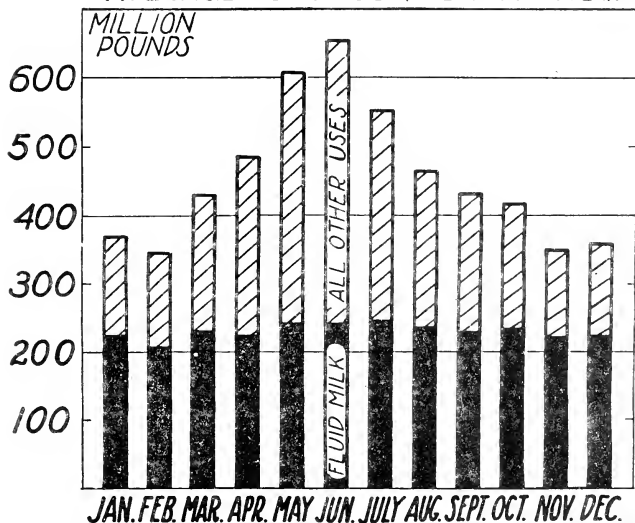
P. S.—These are the only producers we ever discontinued. All other producers discontinued shipping voluntarily or because they were shut off by the Detroit Department of Health.

GEO. A. JOHNSON.

EXHIBIT No. 441

[Submitted by The Borden Co.]

RELATION OF PRODUCTION TO SALES OF FLUID MILK AVERAGE 1928-1937, NEW YORK PLANTS



JAN. FEB. MAR. APR. MAY JUN. JULY AUG. SEPT. OCT. NOV. DEC.

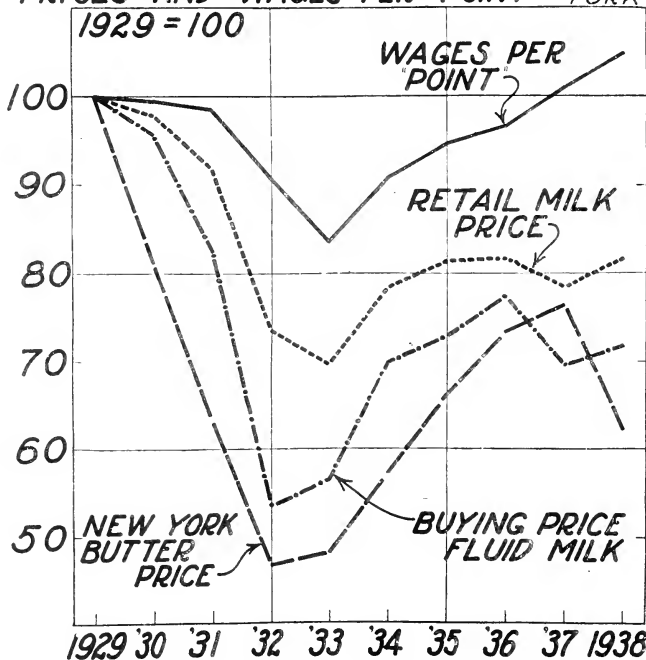
Average monthly production of milk in New York State and sales of fluid milk
1928 to 1937

| Month | Production | Fluid milk sales | Other uses |
|----------------|------------------|------------------|------------------|
| | <i>Pounds</i> | <i>Pounds</i> | <i>Pounds</i> |
| January..... | 368, 700, 000 | 225, 200, 000 | 143, 500, 000 |
| February..... | 345, 000, 000 | 208, 300, 000 | 136, 700, 000 |
| March..... | 428, 200, 000 | 232, 900, 000 | 195, 300, 000 |
| April..... | 484, 800, 000 | 225, 700, 000 | 259, 100, 000 |
| May..... | 607, 500, 000 | 242, 900, 000 | 364, 600, 000 |
| June..... | 653, 700, 000 | 243, 100, 000 | 410, 600, 000 |
| July..... | 551, 400, 000 | 247, 400, 000 | 304, 000, 000 |
| August..... | 463, 600, 000 | 237, 200, 000 | 226, 400, 000 |
| September..... | 431, 000, 000 | 230, 100, 000 | 200, 900, 000 |
| October..... | 416, 700, 000 | 235, 000, 000 | 181, 700, 000 |
| November..... | 348, 800, 000 | 222, 500, 000 | 126, 300, 000 |
| December..... | 358, 500, 000 | 224, 700, 000 | 133, 800, 000 |
| Total..... | 5, 457, 900, 000 | 2, 775, 000, 000 | 2, 682, 900, 000 |

EXHIBIT No. 442

[Submitted by The Borden Co.]

RELATION OF BUTTER PRICES, PRICES PAID PRODUCERS FOR FLUID MILK, RETAIL MILK PRICES AND WAGES PER "POINT" ^{NEW YORK}



Relation of butter prices, prices paid producers for fluid milk, retail milk prices and wages per unit, New York

1929 = 100

| Year | Wholesale butter prices | Fluid milk prices to producers | Retail milk prices | Route salesmen's wages per unit |
|------|-------------------------|--------------------------------|--------------------|---------------------------------|
| 1929 | 100.0 | 100.0 | 100.0 | 100.0 |
| 1930 | 81.0 | 95.7 | 97.8 | 99.5 |
| 1931 | 62.8 | 82.5 | 91.8 | 98.5 |
| 1932 | 46.6 | 53.4 | 73.5 | 90.8 |
| 1933 | 48.1 | 56.4 | 69.6 | 83.5 |
| 1934 | 57.1 | 69.8 | 78.3 | 90.8 |
| 1935 | 66.1 | 72.8 | 81.3 | 94.7 |
| 1936 | 73.4 | 77.4 | 81.6 | 96.6 |
| 1937 | 76.4 | 69.5 | 78.4 | 101.0 |
| 1938 | 62.1 | 71.8 | 81.6 | 104.9 |

EXHIBIT No. 443

[Submitted by The Borden Co.]

THEORETICAL EXAMPLE OF CLASSIFIED PRICES

| USE & MILK | QUANTITY LBS. | PRICE PER CWT. \$ | VALUE \$ |
|-------------|------------------|-------------------------|-------------|
| FLUID MILK | 300,000 | 2.50 | 7,500 |
| FLUID CREAM | 100,000 | 2.00 | 2,000 |
| EVAP. MILK | 100,000 | 1.30 | 1,300 |
| BUTTER | 300,000 | 1.00 | 3,000 |
| CHEESE | 200,000 | 1.00 | 2,000 |
| TOTAL | 1,000,000 | | 15,800 |
| AVERAGE | | \$1.58 | |

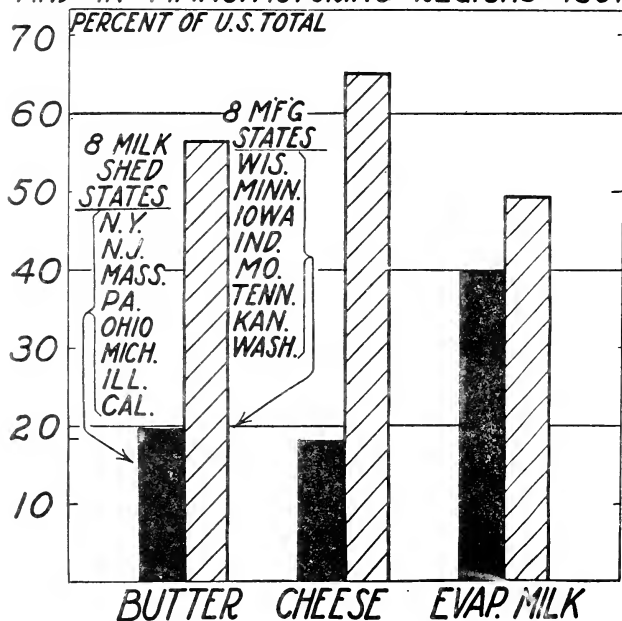
Theoretical example of classified prices

| Use of milk | Quantity | Price per hundredweight | Value |
|------------------------|---------------|-------------------------|----------|
| | <i>Pounds</i> | | |
| Fluid milk | 300,000 | \$2. 50 | \$7, 500 |
| Fluid cream | 100,000 | 2. 00 | 2, 000 |
| Evaporated milk | 100,000 | 1. 30 | 1, 300 |
| Butter | 300,000 | 1. 00 | 3, 000 |
| Cheese | 200,000 | 1. 00 | 2, 000 |
| Total | 1, 000, 000 | | 15, 800 |
| Average or blend | | 1. 58 | |

EXHIBIT No. 444

[Submitted by The Borden Co.]

PRODUCTION OF BUTTER, CHEESE AND EVAPORATED MILK IN CITY MILK SHEDS AND IN MANUFACTURING REGIONS—1937



Production of butter, cheese, and evaporated milk in city milk sheds and in manufacturing regions—1937

| | 8 milk shed States ¹ | 8 manufactured dairy product States ² |
|---|---------------------------------|--|
| | Percent of United States | Percent of United States |
| Urban population (1930) | 60. 7 | 14. 4 |
| Butter production (1937) | 19. 7 | 56. 5 |
| Cheese production (1937) | 18. 1 | 65. 0 |
| Evaporated milk production (1937) | 37. 2 | 49. 4 |

¹ New York, New Jersey, Massachusetts, Pennsylvania, Ohio, Michigan, Illinois, California.

² Wisconsin, Minnesota, Iowa, Indiana, Missouri, Tennessee, Kansas, Washington.

EXHIBIT No. 445

[Submitted by The Borden Co.]

*PERCENT OF TOTAL SALES OF MILK
ON RETAIL AND WHOLESALE ROUTES*

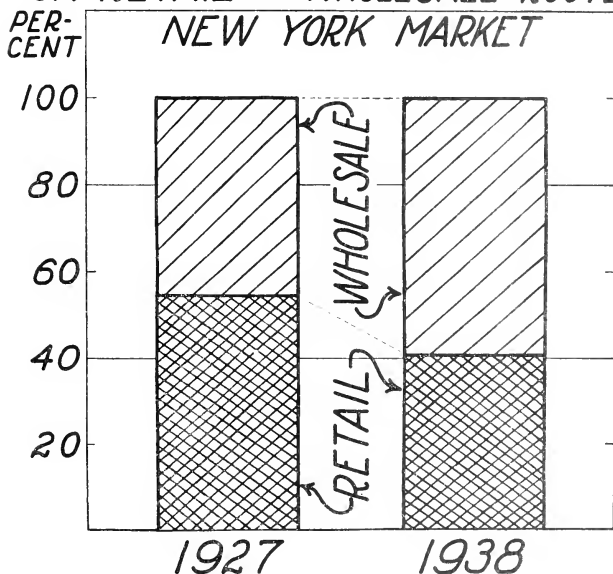


EXHIBIT No. 446

[Submitted by The Borden Co.]

RELATION OF BORDEN RETAIL TO WHOLESALE SALES ^{IN TERMS OF "POINTS"}

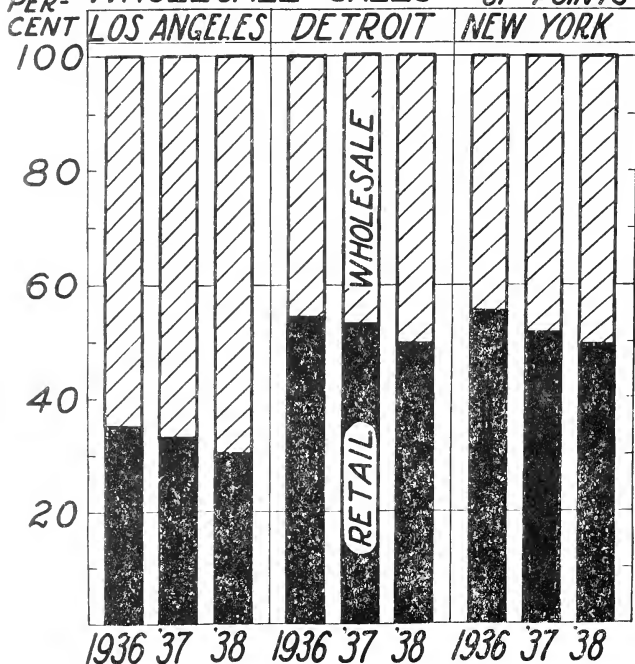


TABLE 5.—Percent that Borden home delivered sales ¹ are of total Borden sales ¹ (in terms of units)

| | Detroit | New York | Los Angeles |
|-----------|---------|----------|-------------|
| 1936..... | 54. 3 | 55. 4 | 35. 1 |
| 1937..... | 53. 1 | 51. 6 | 33. 1 |
| 1938..... | 49. 9 | 49. 4 | 30. 2 |

¹ Includes only the sales of fluid-milk operations.

EXHIBIT No. 447

[Submitted by The Borden Co.]

LABOR COST PER QUART

WHOLESALE RETAIL

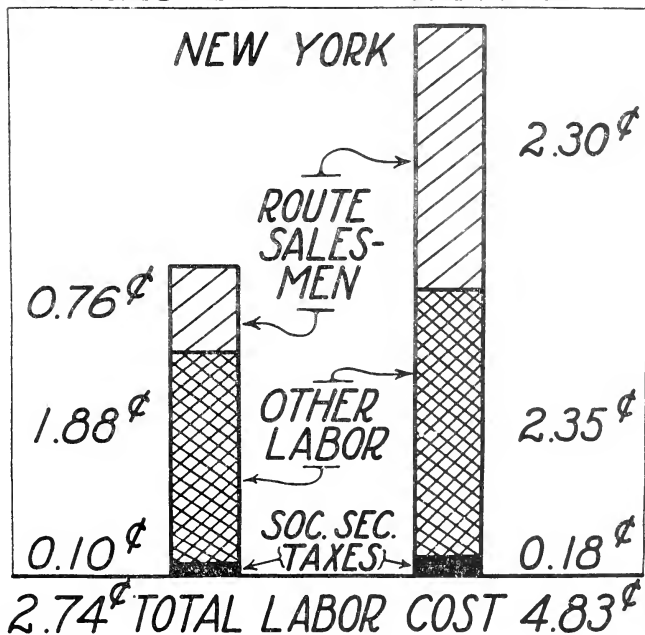


EXHIBIT No. 448

[Submitted by The Borden Co.]

LABOR COST PER QUART
WHOLESALE RETAIL

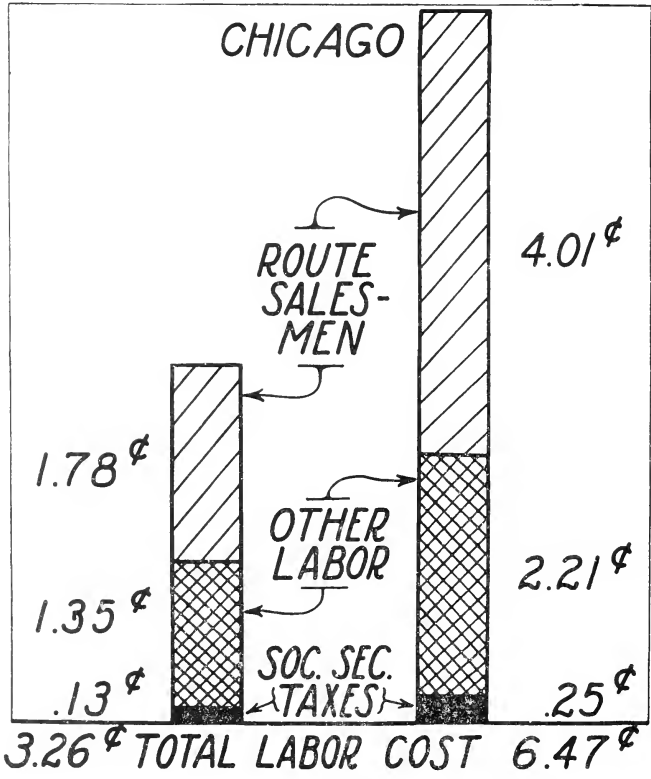
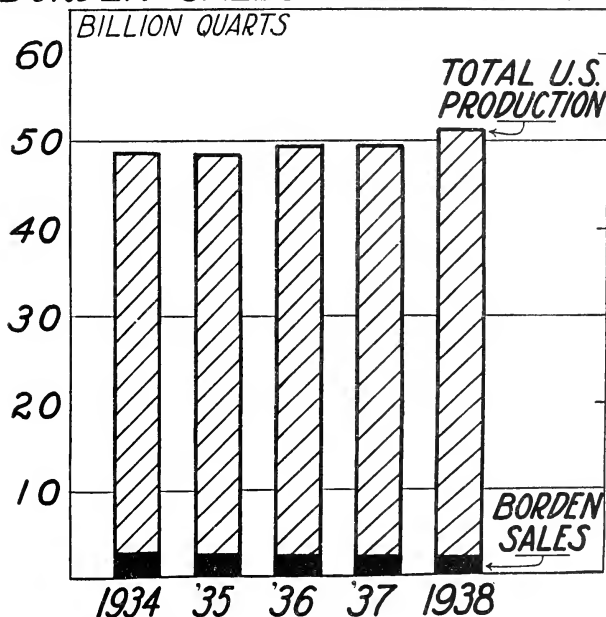


EXHIBIT No. 449

[Submitted by The Borden Co.]

RELATION OF TOTAL U.S. MILK PRODUCTION TO MILK EQUIVALENT* OF BORDEN SALES OF ALL PRODUCTS



* 3.5% BUTTERFAT CONTENT

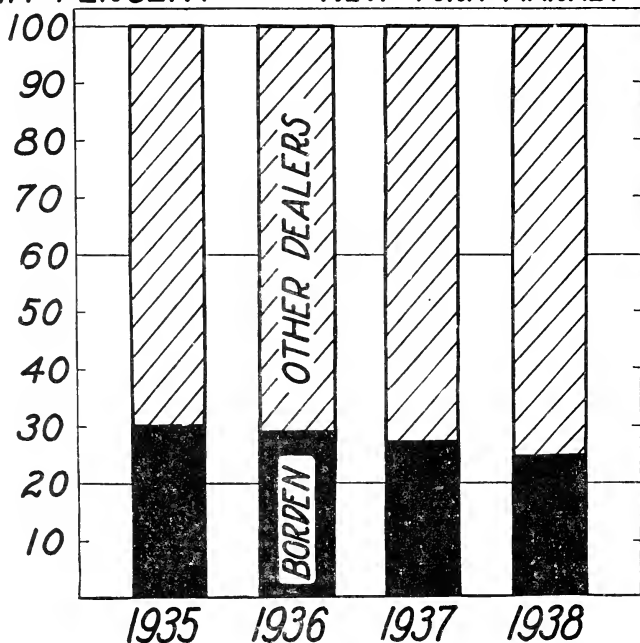
Borden's position in the dairy industry

| | Milk equivalent all Borden products sold in the United States ¹ | Total milk production in the United States | Percent Borden is of total |
|-----------|--|--|----------------------------|
| | Million quarts | Million quarts | Percent |
| 1934..... | 2,723 | 48,537 | 5.6 |
| 1935..... | 2,581 | 48,487 | 5.3 |
| 1936..... | 2,462 | 49,307 | 5.0 |
| 1937..... | 2,381 | 49,283 | 4.8 |
| 1938..... | 2,226 | 51,154 | 4.4 |

3.5 percent butterfat content.

EXHIBIT No. 450

[Submitted by The Porden Co.]

*BORDEN'S FLUID MILK SALES
IN PERCENT OF THE NEW YORK MARKET**Borden sales of fluid milk in percent of the total New York market*

| Year | Total market receipts | Borden sales | Percent of market |
|-----------|------------------------|------------------------|-------------------|
| | <i>Thousand quarts</i> | <i>Thousand quarts</i> | |
| 1935..... | 1, 278, 622 | 385, 952 | 30. 2 |
| 1936..... | 1, 358, 369 | 395, 863 | 29. 1 |
| 1937..... | 1, 449, 331 | 396, 285 | 27. 3 |
| 1938..... | 1, 427, 472 | 354, 576 | 24. 8 |

EXHIBIT No. 451

[Submitted by The Borden Co.]

NUMBER OF COMPANIES OPERATING PASTEURIZING PLANTS

| MARKET | 1929 | 1939 |
|---------------------|------|------|
| AKRON | 22 | 28 |
| ALAMEDA CO., CALIF. | 16 | 31 |
| BRIDGEPORT | 8 | 39 |
| COLUMBUS | 18 | 27 |
| DETROIT | 31 | 56 |
| MADISON | 3 | 8 |
| MILWAUKEE | 12 | 19 |
| SAN FRANCISCO | 20 | 18 |

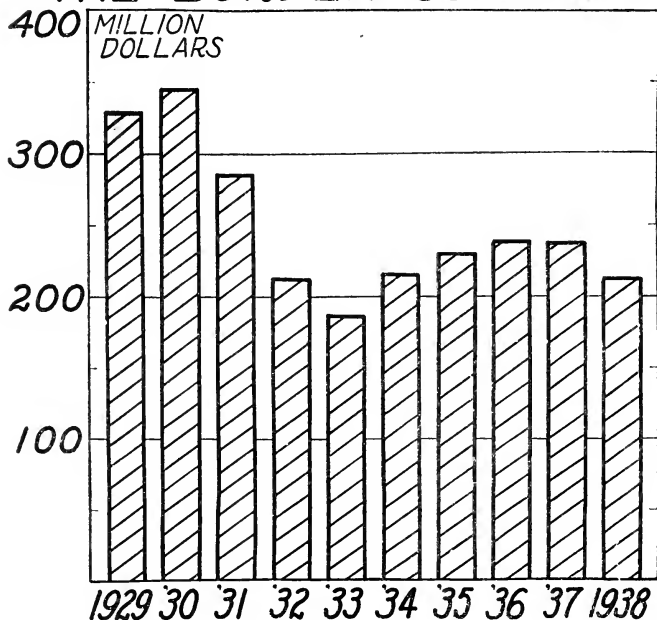
Number of companies operating pasteurizing plants

| Market | 1929 | 1939 |
|----------------------------|------|------|
| Akron..... | 22 | 28 |
| Alameda County, Calif..... | 16 | 31 |
| Bridgeport..... | 8 | 39 |
| Columbus..... | 18 | 27 |
| Detroit..... | 31 | 56 |
| Madison..... | 3 | 8 |
| Milwaukee..... | 12 | 19 |
| San Francisco..... | 20 | 18 |

EXHIBIT No. 452

[Submitted by The Borden Co.]

TOTAL SALES THE BORDEN COMPANY



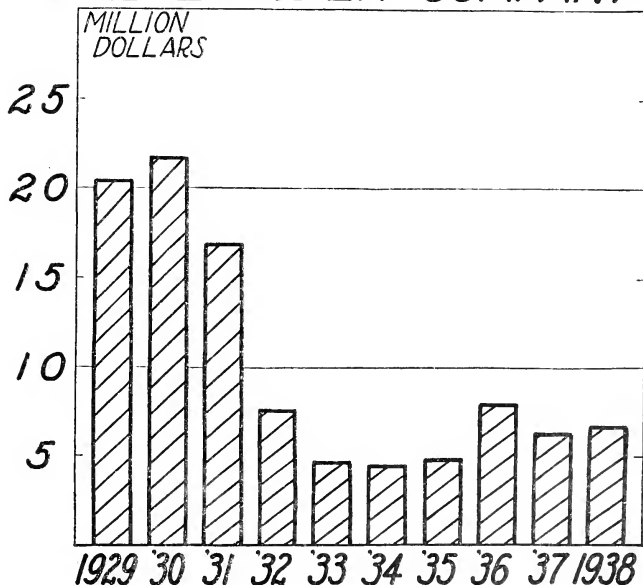
Total sales of the Borden Co.

| | Sales | Percent of 1929 |
|------|-----------------|-----------------|
| 1929 | \$328, 466, 989 | 100. 0 |
| 1930 | 345, 422, 779 | 105. 2 |
| 1931 | 284, 586, 877 | 86. 6 |
| 1932 | 212, 348, 871 | 64. 6 |
| 1933 | 186, 301, 203 | 56. 7 |
| 1934 | 215, 723, 659 | 65. 7 |
| 1935 | 229, 888, 089 | 70. 0 |
| 1936 | 238, 844, 537 | 72. 7 |
| 1937 | 237, 561, 671 | 72. 3 |
| 1938 | 212, 038, 654 | 64. 6 |

EXHIBIT No. 453

[Submitted by The Borden Co.]

NET INCOME THE BORDEN COMPANY



Net income of the Borden Co.

| | Net income | Percent of 1929 |
|------|--------------|-----------------|
| 1929 | \$20,403,725 | 100.0 |
| 1930 | 21,681,213 | 106.3 |
| 1931 | 16,812,268 | 82.4 |
| 1932 | 7,524,489 | 36.9 |
| 1933 | 4,646,444 | 22.8 |
| 1934 | 4,490,044 | 22.0 |
| 1935 | 4,842,348 | 23.7 |
| 1936 | 7,921,490 | 38.8 |
| 1937 | 6,290,651 | 30.8 |
| 1938 | 6,641,205 | 32.5 |

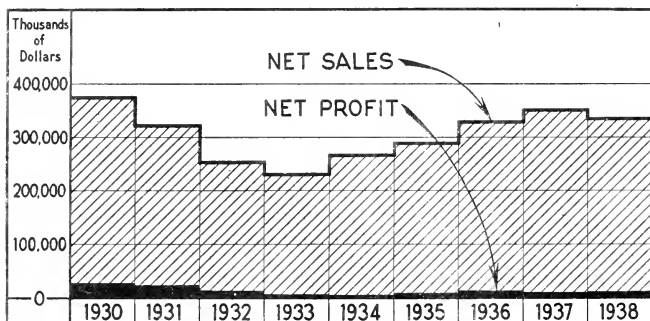
"EXHIBIT No. 454," introduced on p. 3027, is on file with the committee.

"EXHIBIT No. 455," introduced on p. 3027, is on file with the committee.

EXHIBIT No. 456

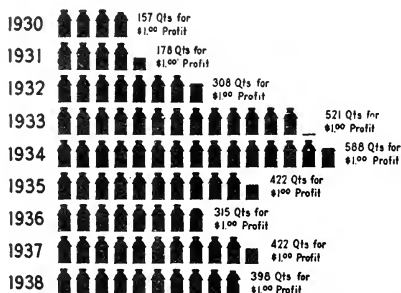
[Submitted by National Dairy Products Corp.]

NATIONAL DAIRY PRODUCTS CORP., AND SUBSIDIARY COMPANIES



*AMOUNT OF MILK NATIONAL DAIRY HAD TO PROCESS
AND SELL TO EARN ONE DOLLAR OF PROFIT
EACH CAN = 40 QUARTS

CENTS NATIONAL DAIRY EARNED
PER DOLLAR OF SALES



| | |
|------|----------------------------------|
| 1930 | 7¢ |
| 1931 | 7¢ |
| 1932 | 5¢ |
| 1933 | 3 ¹ / ₁₀ ¢ |
| 1934 | 2 ⁵ / ₁₀ ¢ |
| 1935 | 3 ³ / ₁₀ ¢ |
| 1936 | 4¢ |
| 1937 | 2 ⁹ / ₁₀ ¢ |
| 1938 | 3 ⁴ / ₁₀ ¢ |

* Includes milk sold in bottles as well as in form of cheese, butter and other milk products.

SOURCE - National Dairy Products Corporation.

EXHIBIT No. 457

[Submitted by National Dairy Products Corp.]

PLAIN FACTS ON NATIONAL DAIRY'S PROFITS

WERE WE TO GIVE AWAY OUR EARNINGS...

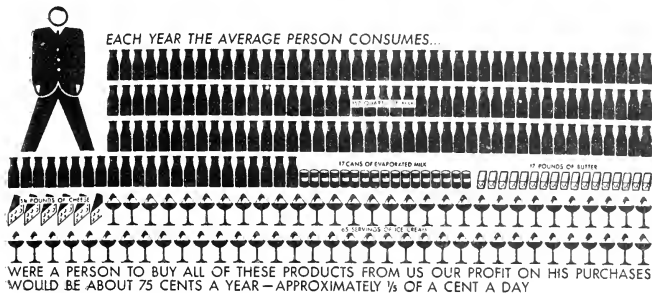
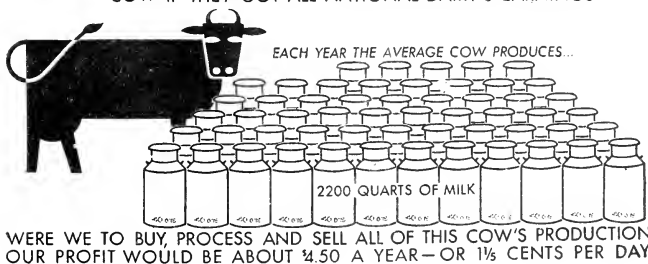
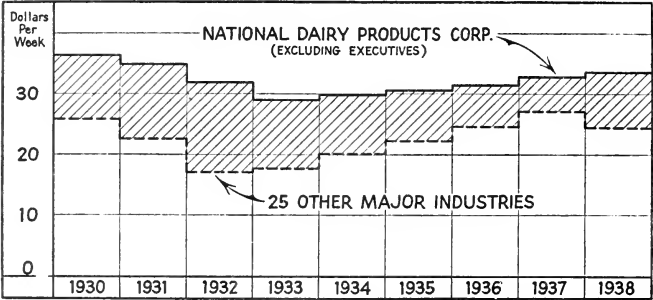
EITHER: OUR CUSTOMERS WOULD BE $\frac{1}{3}$ OF A CENT A DAY RICHER
IF THEY GOT ALL NATIONAL DAIRY'S EARNINGS**OR:** OUR FARMERS WOULD GET $1\frac{1}{2}$ CENTS A DAY MORE PER
COW IF THEY GOT ALL NATIONAL DAIRY'S EARNINGS

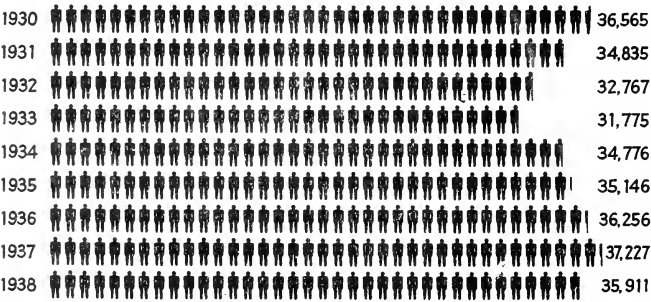
EXHIBIT No. 458

[Submitted by National Dairy Products Corp.]

NATIONAL DAIRY PRODUCTS CORPORATION
WAGE AND EMPLOYMENT RECORD



ANNUAL AVERAGE NUMBER OF EMPLOYEES
EACH FIGURE = 1,000



SOURCE - National Industrial Conference Board and National Dairy Products Corporation

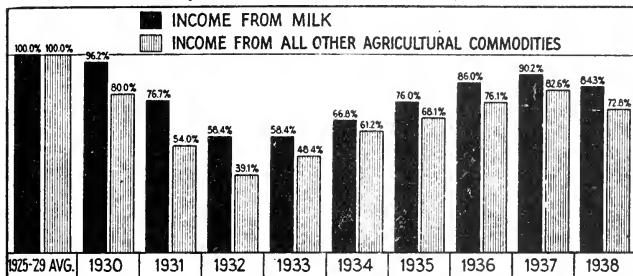
"EXHIBIT No. 459," introduced on p. 3034, is on file with the committee.

EXHIBIT No. 460

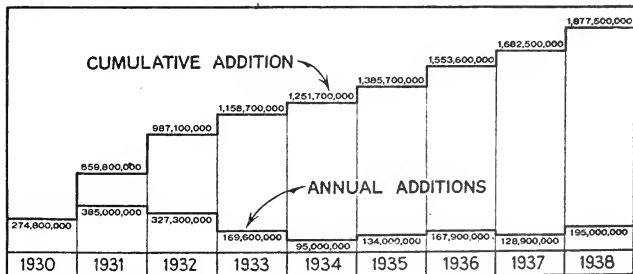
[Submitted by National Dairy Products Corp.]

GREATER STABILITY OF FARM INCOME FROM MILK COMPARED WITH INCOME FROM ALL OTHER AGRICULTURAL COMMODITIES

(1925-1929 AVERAGE = 100%)



HOW MILK'S GREATER STABILITY AS AN INCOME PRODUCER HAS ADDED TO DAIRY FARMERS' PURCHASING POWER



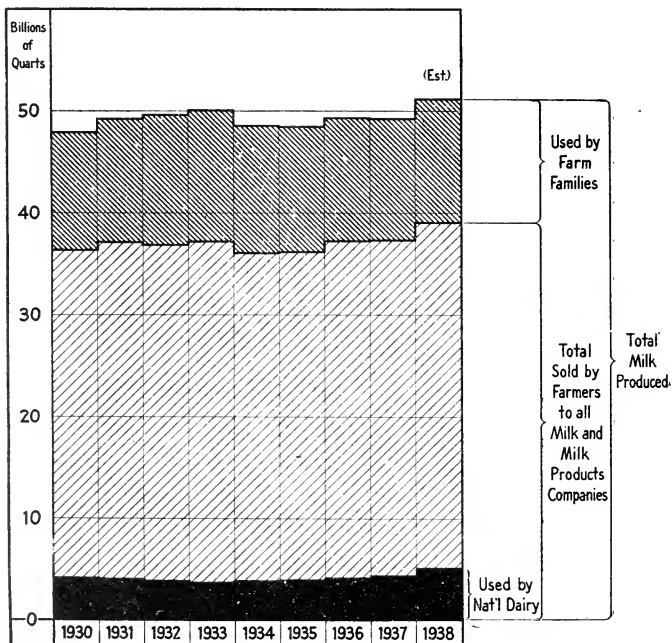
SOURCE - Compiled from U. S. Department of Agriculture statistics.

EXHIBIT No. 461

[Submitted by National Dairy Products Corp.]

PORTION OF TOTAL U.S. MILK PRODUCTION
SOLD BY NATIONAL DAIRY PRODUCTS CORP.

1930 - 1938

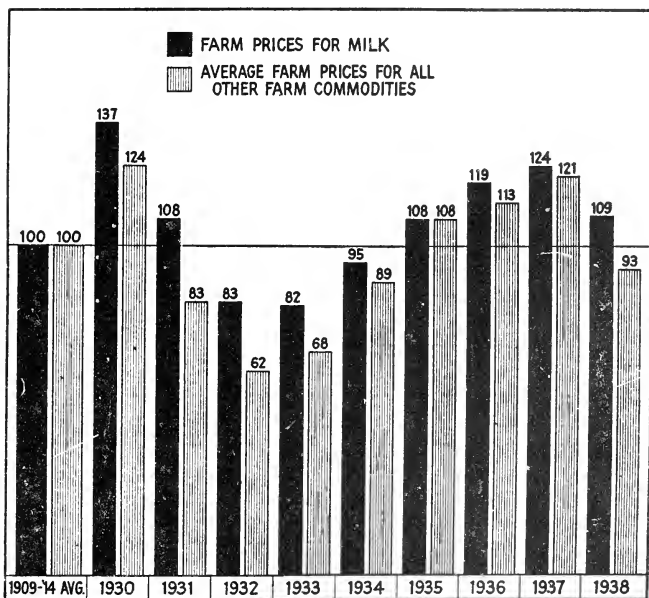


SOURCE - U. S. Department of Agriculture and National Dairy Products Corporation.

EXHIBIT No. 462

[Submitted by National Dairy Products Corp.]

FARM MILK PRICE INDEX COMPARED WITH INDEX OF ALL OTHER FARM PRICES (1909-1914 = 100)



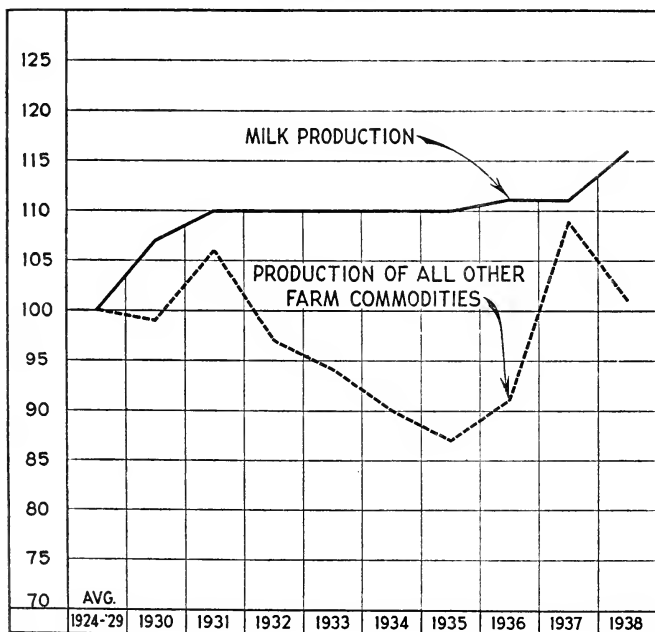
SOURCE: U S Department of Agriculture

EXHIBIT No. 463

[Submitted by National Dairy Products Corp.]

VOLUME OF MILK PRODUCTION COMPARED WITH VOLUME
OF PRODUCTION OF ALL OTHER FARM PRODUCTS

1924-1929 = 100










SOURCE - U.S. Department of Agriculture

EXHIBIT No. 464

[Submitted by National Dairy Products Corp.]

CHANGES IN ANNUAL PER CAPITA CONSUMPTION
OF PRINCIPAL FOODS DURING LAST 15 YEARS

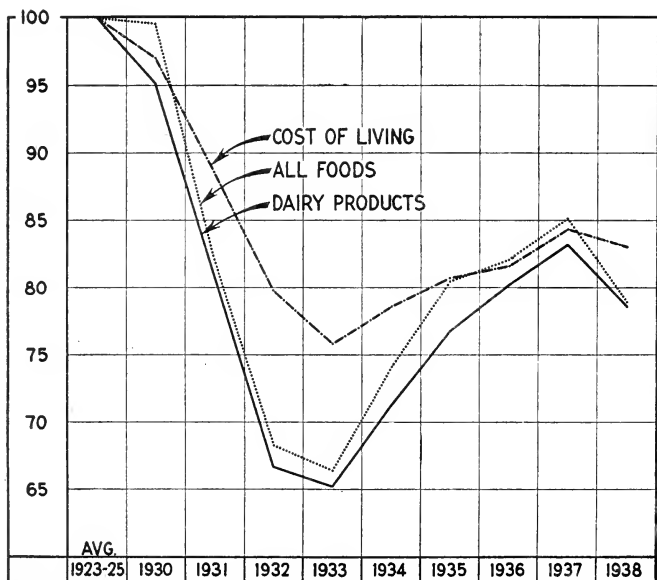
| VEGETABLES | AVG. LBS. 1920-24 | AVG. LBS. 1934-37 | PERCENT CHANGE |
|---|----------------------|----------------------|-------------------|
|  | 135 | 169 | +25% |
| DAIRY PRODUCTS | | | |
|  | 355 | 377 | +6% |
| FRUITS | | | |
|  | 185 | 195 | +5% |
| SUGAR & SYRUP | | | |
|  | 106 | 110 | +4% |
| LEAN MEATS & FISH | | | |
|  | 138 | 126 | -9% |
| POTATOES | | | |
|  | 178 | 157 | -12% |
| CEREAL PRODUCTS | | | |
|  | 229 | 196 | -14% |

SOURCE: U. S. Department of Agriculture

EXHIBIT No. 465

[Submitted by National Dairy Products Corp.]

RETAIL PRICES OF DAIRY PRODUCTS COMPARED WITH RETAIL PRICES OF ALL FOODS AND THE COST OF LIVING (1923-1925 = 100%)



SOURCE: U.S. Department of Labor

EXHIBIT No. 466

[Submitted by National Dairy Products Corp.]

QUARTS OF MILK THAT CAN BE BOUGHT WITH ONE HOUR'S WAGES

DAILY PER CAPITA
CONSUMPTION
(PINTS)

0.8

UNITED STATES



5.3 QUARTS



1.0

SWEDEN



4.8 QUARTS



0.5

FRANCE



3.5 QUARTS



0.5

GERMANY



3.3 QUARTS



0.4

BELGIUM



3.3 QUARTS



0.2

ITALY



2.1 QUARTS



0.5

GREAT BRITAIN



1.8 QUARTS



0.1

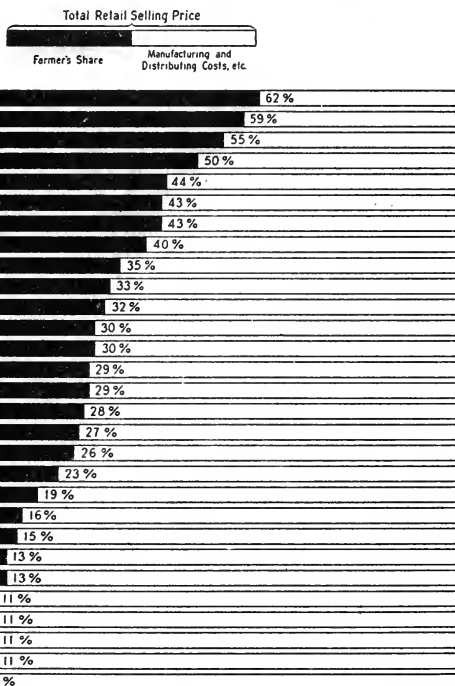
U. S. S. R.
(MOSCOW)

1.0 QUARTS

SOURCE - League of Nations, National Association of Manufacturers, and private research

EXHIBIT No. 467

[Submitted by National Dairy Products Corp.]

**FARMER'S SHARE OF THE
RETAIL PRICES OF VARIOUS FOODS**

SOURCE - U. S. Department of Agriculture - 1937 data

EXHIBIT No. 468

[Submitted by National Dairy Products Corp.]

HOW DID NATIONAL DAIRY USE ITS \$334,300,000 OF SALES IN 1938?

Each bag equals ten million dollars

\$187,200,000 went to dairy farmers and other producers and suppliers who sold us the raw material we used to make our products



OUT OF EACH DOLLAR
OF SALES...

Dairy farmers and
other suppliers of
our raw materials
got 56¢



\$64,900,000 paid to National Dairy's 36,000 employees as salaries and wages



Employees received
19 1/10¢



\$62,900,000 for supplies, repairs, depreciation, power, light, heat, gas, oil, feed and a wide range of other supplies and services necessary to the operation of the business.



Hundreds of different
operating expenses &
services cost 18 1/10¢



\$8,000,000 in taxes of all kinds went to various government bodies—Municipal, State and Federal



Direct taxes took
2 1/10¢



\$11,300,000 remained for our 75,000 stockholders in return for the use of their capital



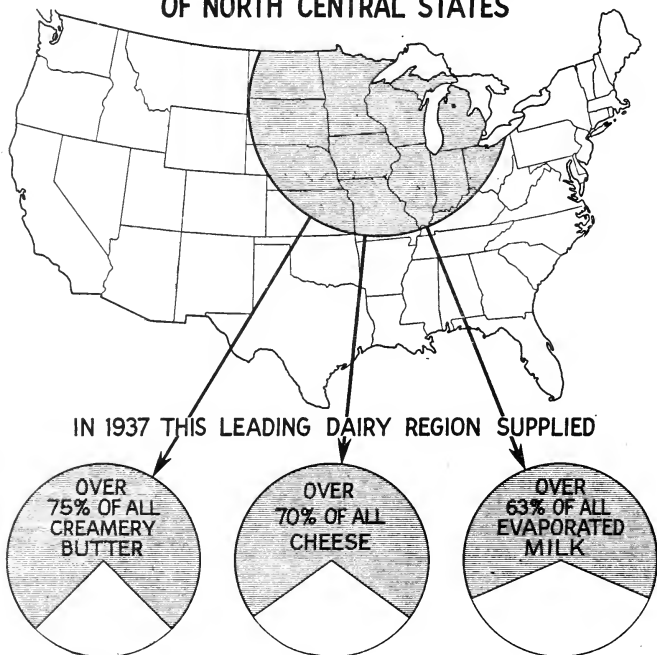
Stockholders
had a right to
3 1/10¢



EXHIBIT No. 469

[Submitted by National Dairy Products Corp.]

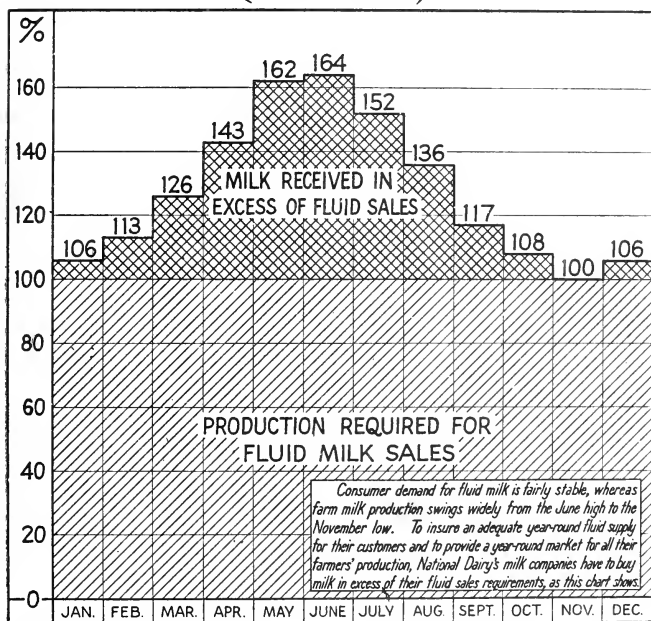
CONCENTRATION OF DAIRY PRODUCTS MANUFACTURE WITHIN LOW COST PRODUCING AREAS OF NORTH CENTRAL STATES



SOURCE - U.S. Department of Agriculture

EXHIBIT No. 470

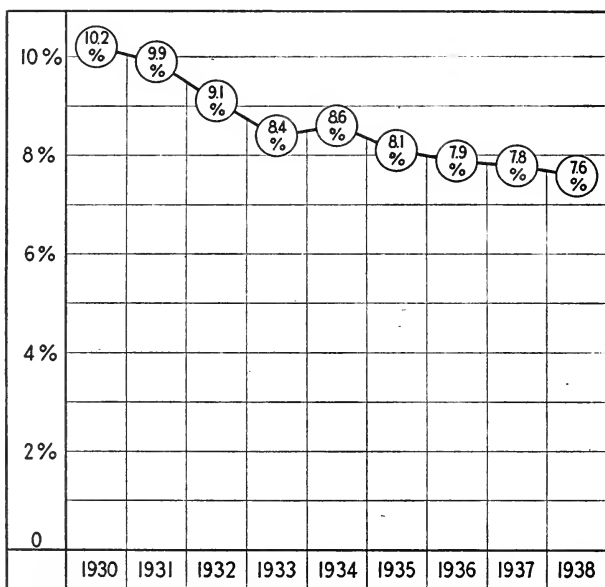
EXCESS OF MILK RECEIVED FROM PRODUCERS OVER FLUID MILK SALES REQUIREMENTS (YEAR 1938)



SOURCE: National Dairy Products Corporation.

EXHIBIT No. 471

DECREASE IN NATIONAL DAIRY'S SHARE OF FLUID MILK
AND CREAM SALES WITHIN THE UNITED STATES
1930 - 1938

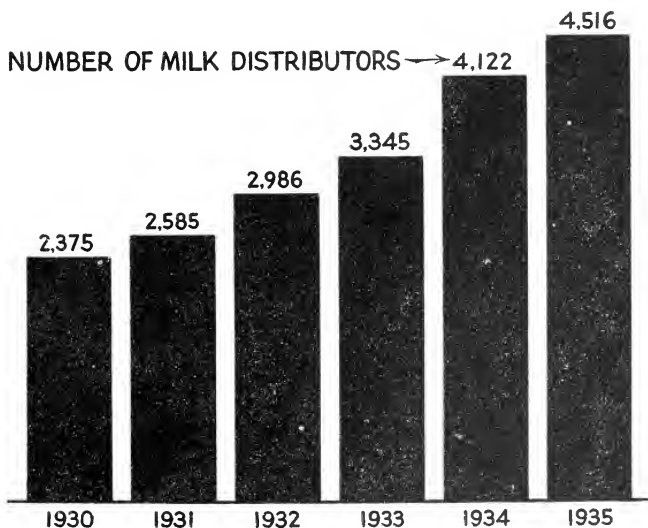


SOURCE - U.S. Department of Agriculture and National Dairy Products Corporation.

EXHIBIT No. 472

HOW FLUID MILK COMPETITION INCREASED IN PRINCIPAL NATIONAL DAIRY MARKETS, 1930-1935

(TOTAL POPULATION OF THESE MARKETS - 24,000,000)

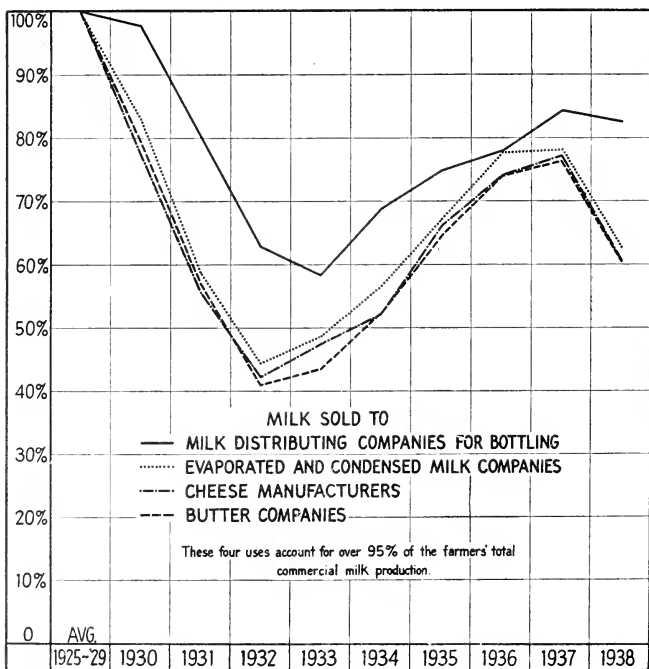


SOURCE: National Dairy Products Corporation.

EXHIBIT No. 473

[Submitted by National Dairy Products Corp.]

COMPARISON OF FARM PRICES FOR MILK USED FOR VARIOUS PURPOSES (1925 - 1929 = 100%)



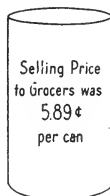
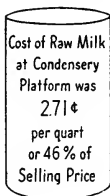
SOURCE - Compiled from statistics of U.S. Department of Agriculture and Wisconsin Department of Agriculture & Markets

EXHIBIT No. 474

COMPARISON OF COST & SELLING PRICES OF FLUID MILK AND EVAPORATED MILK IN BOSTON DECEMBER, 1938.

EVAPORATED MILK

(APPROXIMATELY ONE QUART OF RAW MILK IS NEEDED
TO MAKE A LARGE CAN OF EVAPORATED MILK.)



FLUID MILK

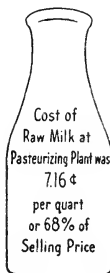
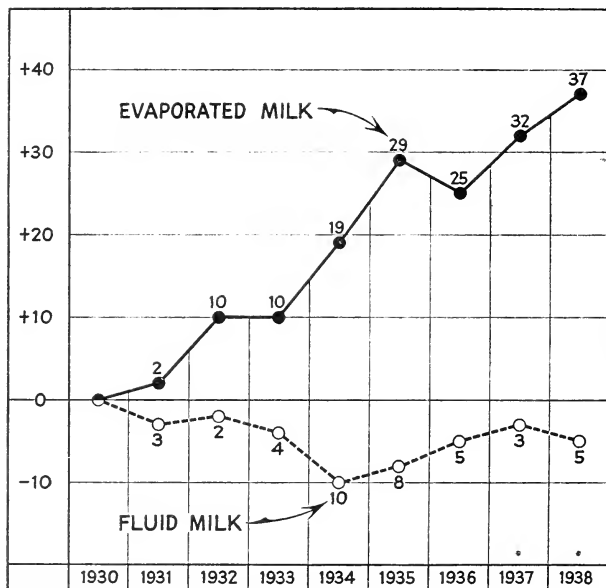


EXHIBIT No. 475

[Submitted by National Dairy Products Corp.]

PERCENT CHANGE IN U.S. PER CAPITA CONSUMPTION OF FLUID MILK AND EVAPORATED MILK COMPARED WITH 1930



SOURCE - U.S. Department of Agriculture * Preliminary Estimates.

SUPPLEMENTAL DATA

The following document is included at this point in connection with testimony on p. 2884, supra.

EXHIBIT No. 636

ARTICLES OF ASSOCIATION OF THE MICHIGAN MILK PRODUCERS ASSOCIATION

We, the undersigned, being of full age, and desiring to become incorporated under the provisions of Act No. 171, of the Public Acts of Michigan for 1903, entitled "An Act for the incorporation of associations not for pecuniary profit," do hereby make, execute, and adopt the following articles of association, to wit:

ARTICLE I. The name or title by which said corporation is to be known in law is Michigan Milk Producers Association.

ART. II. The purposes for which it is formed are as follows: To promote in all legal ways the interest of the milk producers of Michigan by mutual cooperation in producing, buying, selling, and marketing all milk and dairy products within the State of Michigan.

ART. III. The principal office or place of business shall be at East Lansing in the county of Ingham.

ART. IV. The term of existence of this proposed corporation is fixed at 30 years from the date of these articles.

ART. V. The number of trustees or directors shall be seven.

ART. VI. The names of the trustees or directors selected for the first year of its existence are as follows: Silas Munsell, Howell; A. R. Harrington, Grand Rapids; J. C. Near, Flat Rock; A. L. Chandler, Owosso; James Keer, Birch Run; John Hull, Dimondale; Milo Godfrey, Napoleon.

ART. VII. The qualifications required of officers and members are as follows: All persons who are actively engaged in the production of milk or cream which is sold as such in commercial quantities off their farms.

In witness whereof, we, the parties hereby associated, have hereunto subscribed our names, this 3d day of June A. D. 1916.

N. P. Hull, Dimondale; John Hull, Dimondale; Guy Borden, Howell; John C. Near, Flat Rock; Albert Chandler, Owosso; Milo S. Godfrey, Napoleon; Chas. N. McBride, East Lansing; A. C. Anderson, East Lansing; R. C. Reed, Howell; S. H. Munsell, Howell.

STATE OF MICHIGAN,

County of Ingham, ss:

On this 3d day of June A. D. 1916, before me, a notary public in and for said county, personally appeared: N. P. Hull, John Hull, Guy Borden, John C. Near, Albert Chandler, Milo S. Godfrey, Chas. N. McBride, A. C. Anderson, R. C. Reed, S. H. Munsell, known to me to be the persons named in, and who executed the foregoing instrument, and severally acknowledged that they executed the same freely and for the intents and purposes therein mentioned.

CHARLES M. MCGILL,
Notary Public.

My commission expires March 20, 1918, Ingham County, Mich.

The following data is included at this point in connection with testimony on p. 2866, *supra*.

NATION-WIDE OPERATING GROUPS

BORDEN CO. 1934

(1) *Manufactured products group*

(a) Condensed milk, evaporated milk, malted milk, dried milk, caramels, etc.:

Operating—

| | |
|--------------------------------------|-----------------------------------|
| Borden's Milk Products Co., Inc..... | Throughout the United States. |
| The Borden Co., Ltd..... | In Canada and New Found- land. |
| The Borden Southern Co..... | Throughout the South. |
| The Borden Western Co..... | Throughout the West. |
| The Borden Co. of Pennsylvania..... | In Pennsylvania. |
| The Borden Co. of Texas..... | In Texas. |
| Maricopa Creamery Co., Inc..... | In Southwest, mainly Arizona. |
| Galloway-West Co., Inc..... | In Middle Western States. |
| The Borden Sales Co., Inc..... | In United States. |

(b) Klim, milk powder, None-Such mince meat, powdered fruit juices, lemon-pie filling:

Operating—

| | |
|--------------------------------------|---------------------------------------|
| Borden's Milk Products Co., Inc..... | Throughout the United States. |
| Canadian Milk Products, Ltd..... | In Canada. |
| Merrell-Soule Co., Ltd..... | In England and continental Europe. |

(c) Malted milk:

Operating—

| | |
|--------------------------------------|-------------------------------|
| Borden's Milk Products Co., Inc..... | Throughout the United States. |
|--------------------------------------|-------------------------------|

(d) Dried skim milk in bulk, dried whole milk in bulk, "Dryco" infant food, sweet cream, dried casein, milk sugar, casein plastics, casein glues:

Operating—

| | |
|---|---|
| The Casein Manufacturing Co. of America, Inc..... | In United States, Canada and export to continental Europe and South and Central America. |
| The Dry Milk Co., Inc..... | |
| National Milk Sugar Co., Inc..... | |

(2) *Fluid milk and dairy products group*

Operating—

| | |
|---|--------------------------------------|
| Borden's Farm Products Co., Inc..... | New York metropolitan dis- trict. |
| Borden's Farm Products Co., Inc..... | Montreal and suburbs. |
| Ottawa Dairy, Ltd..... | Ottawa, Canada. |
| Borden's Farm Products Co. of Illinois..... | Chicago and suburbs. |
| Wieland Dairy Co., Inc..... | Do. |
| Gridley Dairy Co..... | Milwaukee, Wis. |
| Borden's Farm Products Co. of Michigan... | Detroit and suburbs. |

The following data is included at this point in connection with testimony on p. 2797, *supra*.

Prices paid producers in New York metropolitan area, 1923-36

ASSOCIATION CLASS PRICES 3.5 PERCENT MILK PER HUNDRED POUNDS¹

| | Class— | | | | | | | |
|---------------|--------|--------|--------|--------|-------|---------|---------|---------|
| | 1 | 2A | 2B | 2C | 2E | 3 | 4A | 4B |
| 1923: | | | | | | | | |
| June..... | \$2.53 | \$2.25 | \$2.50 | \$2.45 | ----- | \$2.025 | \$1.375 | \$1.945 |
| December..... | 3.00 | 2.30 | 2.55 | 2.55 | ----- | 2.35 | 2.015 | 1.69 |
| 1924: | | | | | | | | |
| June..... | 2.06 | 1.90 | 2.05 | 2.05 | ----- | 1.75 | 1.48 | 1.42 |
| December..... | 3.27 | 2.30 | 2.45 | 2.35 | ----- | 2.00 | 1.615 | 1.725 |
| 1925: | | | | | | | | |
| June..... | 2.53 | 2.00 | 2.15 | 2.10 | ----- | 2.00 | 1.52 | 1.70 |
| December..... | 3.00 | 2.30 | 2.55 | 2.50 | ----- | 2.30 | 1.795 | 2.04 |
| 1926: | | | | | | | | |
| June..... | 2.95 | 1.955 | 2.205 | 2.155 | ----- | 2.00 | 1.47 | 1.61 |
| December..... | 3.10 | 2.31 | 2.56 | ----- | ----- | 2.40 | 2.015 | 1.92 |
| 1927: | | | | | | | | |
| June..... | 2.95 | 2.21 | 2.46 | ----- | ----- | 2.15 | 1.525 | 1.79 |
| December..... | 3.42 | 2.36 | 2.61 | ----- | ----- | 2.45 | 1.905 | 2.305 |
| 1928: | | | | | | | | |
| June..... | 2.90 | 2.06 | 2.31 | ----- | ----- | 2.20 | 1.59 | 1.89 |
| December..... | 3.42 | 2.46 | 2.71 | ----- | ----- | 2.55 | 1.845 | 1.985 |
| 1929: | | | | | | | | |
| June..... | 3.37 | 2.16 | 2.41 | ----- | ----- | 2.20 | 1.565 | 1.79 |
| December..... | 3.42 | 2.264 | 2.506 | ----- | ----- | 2.35 | 1.465 | 1.715 |
| 1930: | | | | | | | | |
| June..... | 3.00 | 1.96 | 2.21 | ----- | ----- | 1.90 | 1.135 | 1.26 |
| December..... | 3.006 | 1.86 | 2.11 | 1.76 | ----- | 1.90 | 1.105 | 1.40 |
| 1931: | | | | | | | | |
| June..... | 2.90 | 1.66 | 1.91 | ----- | ----- | 1.30 | .745 | .76 |
| December..... | 1.814 | 1.31 | 1.56 | ----- | ----- | 1.65 | 1.04 | .875 |
| 1932: | | | | | | | | |
| June..... | 1.79 | 1.06 | 1.26 | ----- | ----- | 1.15 | .485 | .625 |
| December..... | 1.555 | 1.06 | 1.26 | ----- | ----- | 1.20 | .775 | .59 |

MINIMUM PRICES FIXED BY MILK CONTROL BOARD 3.5 PERCENT MILK¹

| | | | | | | | | |
|---------------|--------|--------|--------|--------|---------|---------|---------|---------|
| 1933: | | | | | | | | |
| June..... | \$1.88 | \$1.30 | \$1.50 | \$1.20 | \$0.865 | \$1.153 | \$0.765 | \$0.929 |
| December..... | 2.305 | 1.55 | 1.75 | 1.45 | .70 | 1.140 | .65 | .705 |
| 1934: | | | | | | | | |
| June..... | 2.175 | 1.40 | 1.40 | 1.40 | .95 | 1.24 | .85 | .985 |
| December..... | 2.45 | 1.55 | 1.55 | 1.55 | 1.195 | 1.45 | 1.095 | 1.00 |
| 1935: | | | | | | | | |
| June..... | 2.45 | 1.75 | 1.75 | 1.65 | .925 | 1.21 | .825 | .99 |
| December..... | 2.45 | 1.80 | 1.80 | 1.80 | 1.32 | 1.675 | 1.22 | 1.395 |
| 1936: | | | | | | | | |
| June..... | 2.45 | 1.65 | 1.65 | 1.65 | 1.145 | 1.477 | 1.045 | 1.165 |
| December..... | 2.90 | 2.05 | ----- | ----- | ----- | 1.705 | 1.23 | 1.325 |

¹ Dairymen's League Statistical Review 1921-31, of Prices, Production, and Miscellaneous Data; and supplementary issues 1931-32.

² Statistics Relative to the Dairy Industry in New York State 1935-36, Bulletin 313, Department of Agriculture of the State of New York in cooperation with U. S. Department of Agriculture.

Classes defined as follows:

Class 1. Fluid milk.

Class 2A. Fluid cream.

Class 2B. Plain condensed milk; soft cheese.

Class 2C. Ice cream.

Class 2E. Cream cheese.

Class 3. Evaporated milk; condensed milk.

Chocolate milk; milk powder, etc

Cheese, except American.

Class 4A. Butter.

Class 4B. American cheese.

Prices paid producers in Milwaukee, 1923-34¹

| | Prices paid by distributors per hundred pounds | | | Per quart, light cream ² | Prices paid by condenseries per 100 pounds |
|-----------|--|---------|---------|-------------------------------------|--|
| | Fluid milk | Surplus | Blended | | |
| 1923..... | \$2.84 | \$2.03 | \$2.66 | \$0.271 | \$2.29 |
| 1924..... | 2.76 | 1.60 | 2.35 | .214 | 1.84 |
| 1925..... | 2.50 | 1.92 | 2.28 | .256 | 2.04 |
| 1926..... | 2.80 | 1.86 | 2.54 | .248 | 2.01 |
| 1927..... | 2.92 | 1.96 | 2.67 | .262 | 2.24 |
| 1928..... | 2.98 | 1.95 | 2.70 | .26 | 2.28 |
| 1929..... | 2.97 | 1.83 | 2.66 | .244 | 2.12 |
| 1930..... | 2.96 | 1.39 | 2.35 | .816 | 1.69 |
| 1931..... | 2.48 | 1.01 | 1.84 | .135 | 1.25 |
| 1932..... | 1.94 | .74 | 1.33 | .102 | .92 |
| 1933..... | 1.84 | .89 | 1.35 | .128 | 1.04 |
| 1934..... | 2.03 | .99 | 1.55 | .172 | 1.15 |

¹ Source: Survey of Milk Marketing in Milwaukee, U. S. Department of Agriculture, Agricultural Adjustment Administration, May 1937, pp. 28-29.

² Converted from prices per hundredweight of 3.5 percent milk.

The following data is included at this point in connection with testimony of Dr. Frederick C. Howe on p. 2802, supra.

Farm-price decline, Milwaukee milk survey, 1934-35

| Year | Price paid farmer for class 1 milk | Class 1 milk, collapse from 1923 price to 1933 and 1934 price | Price paid farmer for class 2 milk | Class 2 milk, collapse from 1923 price to 1933 and 1934 price |
|-----------|------------------------------------|---|------------------------------------|---|
| | <i>Cents per quart</i> | <i>Cents per quart</i> | <i>Cents per quart</i> | <i>Cents per quart</i> |
| 1923..... | 6.2 | ----- | 4.4 | ----- |
| 1933..... | 4.0 | 2.2 | 1.93 | 2.47 |
| 1934..... | 4.4 | 1.8 | 2.15 | 2.25 |

| | Loss to farmer— | |
|--|------------------------------------|------------------------------------|
| | On 166,100,000 pounds class 1 milk | On 159,000,000 pounds class 2 milk |
| Loss from 1923 price to 1933 price..... | \$1,771,000 | \$1,812,600 |
| Loss from 1923 price to 1934 price..... | 1,345,410 | 1,653,600 |
| Total losses on reduced price, class 1 and class 2 milk: | | |
| In 1933..... | | 3,473,600 |
| In 1934..... | | 2,999,010 |

The following letter is included at this point in connection with testimony on p. 3102, supra.

SHEFFIELD FARMS COMPANY, INC.

524 West 57th Street,

New York, N. Y., October 23, 1939.

(Sheffield's 99th year)

MR. WILLIAM A. HEFLIN,

Temporary National Economic Committee,

Room 79, The Capitol, Washington, D. C.

DEAR MR. HEFLIN: I have your letter of October 13, 1939, requesting data on the comparative costs of processing evaporated and fluid milk.

Excluding packaging costs, the processing expense will average approximately one cent per quart of fluid milk in a large plant and about two-thirds of one cent per 14½ ounce can of evaporated milk.

In the case of evaporated milk, the packaging cost, which includes the can, solder, labels, carton, paste, cement, etc., averages about one and one-quarter cents per 14½ ounce can. In the case of fluid milk, the packaging cost varies substantially from market to market because of differences in methods and practices, so that an average figure means very little. About all I can say is that the packaging cost per quart of fluid milk is somewhat less than per can of evaporated milk.

I trust the above information covers the data which you had in mind in your request of October 13.

Yours very truly,

L. A. VAN BOMEL, President.

LAVB:LR

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